



Journal of the House

State of Indiana

115th General Assembly

First Regular Session

Fifty-first Meeting Day

Friday Morning

April 27, 2007

The House convened at 10:00 a.m. with Speaker B. Patrick Bauer in the Chair.

The Speaker read a prayer for health and well-being (printed January 11, 2007).

The Pledge of Allegiance to the Flag was led by Representative Chester F. Dobis.

The Speaker ordered the roll of the House to be called:

Austin	Klinker
Avery	Knollman
Bardon	Koch
Battles	Kuzman
Behning	L. Lawson
Bell	Lehe
Bischoff	Leonard
Borders	Lutz
Borror	Mays
Bosma	McClain
C. Brown	Micon
T. Brown	Moses
Buck	Murphy
Buell	Neese
Burton	Niezgodski
Candelaria Reardon	Noe ☐
Cheatham	Orentlicher
Cheney	Oxley
Cherry	Pelath
Cochran	Pflum
Crawford	Pierce ☐
Crooks	Pond
Crouch	Porter
Davis	Reske
Day	Richardson
Dembowski	Ripley
Denbo	Robertson
Dermody	Ruppel
Dickinson	Saunders
Dobis	M. Smith
Dodge	V. Smith
Duncan	Soliday
Dvorak	Stemler
Eberhart	Stevenson
Elrod	Stilwell
Espich	Stutzman
Foley	Summers
Friend	Thomas
Frizzell	Thompson
Fry	Tincher
GiaQuinta	Torr
Goodin	Turner
Grubb	Tyler
Gutwein	Ulmer
E. Harris	VanHaaften
T. Harris	Walorski
Herrell	Welch
Hinkle	Whetstone
Hoy	Wolkins
Kersey	Mr. Speaker

Roll Call 600: 98 present; 2 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Saturday, April 28, 2007, at 10:00 a.m.

HOY

Motion prevailed.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT

ESB 330-1; filed April 26, 2007, at 6:36 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 330 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 20-26-11-8, AS AMENDED BY SEA 94-2007, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) A student who is placed in a state licensed private or public health care facility ~~or~~ child care facility: ~~or foster family home:~~

(1) by or with the consent of the department of child services;

(2) by a court order; or

(3) by a child placing agency licensed by the department of child services;

may attend school in the school corporation in which the ~~home~~ ~~or~~ facility is located. If the school corporation in which the ~~home~~ ~~or~~ facility is located is not the school corporation in which the student has legal settlement, the school corporation in which the student has legal settlement shall pay the transfer tuition of the student.

(b) A student who is placed in a state licensed private or public health care or child care facility by a parent may attend school in the school corporation in which the facility is located if:

(1) the placement is necessary for the student's physical or emotional health and well-being and, if the placement is in a health care facility, is recommended by a physician; and
(2) the placement is projected to be for not less than fourteen (14) consecutive calendar days or a total of twenty (20) calendar days.

The school corporation in which the student has legal settlement shall pay the transfer tuition of the student. The parent of the student shall notify the school corporation in which the facility is located and the school corporation of the student's legal settlement, if identifiable, of the placement. Not later than thirty (30) days after this notice, the school corporation of legal

settlement shall either pay the transfer tuition of the transferred student or appeal the payment by notice to the department. The acceptance or notice of appeal by the school corporation must be given by certified mail to the parent or guardian of the student and any affected school corporation. In the case of a student who is not identified as having a disability under IC 20-35, the state board shall make a determination on transfer tuition according to the procedures in section 15 of this chapter. In the case of a student who has been identified as having a disability under IC 20-35, the determination on transfer tuition shall be made under this subsection and the procedures adopted by the state board under IC 20-35-2-1(b)(5).

(c) A student who is placed in:

- (1) an institution operated by the division of disability and rehabilitative services or the division of mental health and addiction; or
- (2) an institution, a public or private facility, a home, a group home, or an alternative family setting by the division of disability and rehabilitative services or the division of mental health and addiction;

may attend school in the school corporation in which the institution is located. The state shall pay the transfer tuition of the student, unless another entity is required to pay the transfer tuition as a result of a placement described in subsection (a) or (b) or another state is obligated to pay the transfer tuition.

(d) **This subsection applies to a student who is placed:**

- (1) **by or with the consent of the department of child services;**
- (2) **by a court order; or**
- (3) **by a child placing agency licensed by the department of child services;**

in a foster family home or the home of a relative or other unlicensed caretaker that is not located in the school corporation in which the student has legal settlement. The student may attend school in either the school corporation in which the foster family home or other home is located or the school corporation in which the student has legal settlement. The department of child services and the student's foster parents or caretaker shall make the determination concerning where the student attends school unless that determination is made by a court that has jurisdiction over the student. If a licensed child placing agency is responsible for oversight of the foster family home in which the student is placed or for providing services to the student, the department of child services must consult with the licensed child placing agency concerning the determination of, or the recommendations made to the court concerning, where the student attends school. Except as provided in subsection (e), transfer tuition is not required for the student.

(e) **If a student to whom subsection (d) applies is attending school in a school corporation that is not the school corporation in which the student has legal settlement, the school corporation in which the student has legal settlement shall pay transfer tuition to the school corporation in which the student is enrolled in school if all of the following conditions apply:**

- (1) **The student was previously placed in a child caring institution licensed under IC 31-27-3.**
- (2) **While placed in the child caring institution, the student was enrolled in a school that is:**
 - (A) **administered by the school corporation in which the child caring institution is located; and**
 - (B) **located at the child caring institution.**
- (3) **The student was moved from the child caring institution to a licensed foster family home supervised by the child caring institution either:**
 - (A) **with the approval of the department of child services and the court having jurisdiction over the student in a case under IC 31-34; or**
 - (B) **by a court order in a case under IC 31-37.**

(4) After moving from the child caring institution to the foster family home, the student continues to attend the school located at the child caring institution.

(5) The legal settlement of the student was determined by a juvenile court under IC 31-34-20-5, IC 31-34-21-10, IC 31-37-19-26, or IC 31-37-20-6.

~~(d)~~ (f) A student:

- (1) who is placed in a facility, home, or institution described in subsection (a), (b), or (c); ~~and~~
- (2) to whom neither subsection (d) nor (e) applies; and**
- ~~(2)~~ (3) for whom there is no other entity or person required to pay transfer tuition;

may attend school in the school corporation in which the facility, home, or institution is located. The department shall conduct an investigation and determine whether any other entity or person is required to pay transfer tuition. If the department determines that no other entity or person is required to pay transfer tuition, the state shall pay the transfer tuition for the student out of the funds appropriated for tuition support.

SECTION 2. IC 20-26-11-11, AS AMENDED BY SEA 94-2007, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) A school corporation may enter into an agreement with:

- (1) a nonprofit corporation that operates a federally approved education program; or
- (2) a nonprofit corporation that:
 - (A) is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;
 - (B) for its classroom instruction, employs teachers who are certified by the department;
 - (C) employs other professionally and state licensed staff as appropriate; and
 - (D) educates children who:
 - (i) have been suspended, expelled, or excluded from a public school in that school corporation and have been found to have an emotional disturbance;
 - (ii) have been placed with the nonprofit corporation by court order;
 - (iii) have been referred by a local health department; ~~or~~
 - (iv) have been placed in a state licensed private or public health care or child care facility as described in ~~section 8(b)~~ section 8 of this chapter; or
 - (v) have been placed by or with the consent of the department under IC 20-35-6-2;**

in order to provide a student with an individualized education program that is the most suitable educational program available.

(b) If a school corporation that is a transferee corporation enters into an agreement as described in subsection (a), the school corporation shall pay to the nonprofit corporation an amount agreed upon from the transfer tuition of the student. ~~The amount agreed upon that may not exceed the total of:~~

- (1) the transfer tuition costs for the student that otherwise would be payable to the transferee corporation; and**
- (2) a proportionate amount of any state or local distributions to the transferee corporation that are computed in any part using ADM or any other student count in which the student is included, if the transferee corporation includes the student in the transferee corporation's ADM for a school year.**

(c) If a school corporation that is a transferor corporation enters into an agreement as described in subsection (a), the school corporation shall pay to the nonprofit corporation an amount agreed upon, which may not exceed the total of:

- (1) the transfer tuition costs that otherwise would be payable to a transferee school corporation; and**
- (2) a proportionate amount of any state or local distributions to the transferor corporation that are computed in any part using ADM or any other student**

count in which the student is included, if the transferor corporation includes the student in the transferor corporation's ADM for a school year.

SECTION 3. IC 20-27-12-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.5. (a) As used in this chapter, "homeless student" includes a student who is awaiting placement in foster care.**

(b) The term does not include a student who is in foster care.

SECTION 4. IC 20-30-8-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 17. (a) This section applies to a public school, including a charter school, that is established by a child caring institution licensed under IC 31-27-3 to provide an alternative education program.**

(b) A school to which this section applies may limit new admissions to the school to ensure that students receiving residential or nonresidential services from the child caring institution may attend the school.

SECTION 5. IC 20-43-4-1, AS AMENDED BY P.L.2-2006, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1. (a) An individual is an eligible pupil if the individual is a pupil enrolled in a school corporation and:**

- (1) the school corporation has the responsibility to educate the pupil in its public schools without the payment of tuition;
- (2) subject to subdivision (5), the school corporation has the responsibility to pay transfer tuition under IC 20-26-11 because the pupil is transferred for education to another school corporation;
- (3) the pupil is enrolled in a school corporation as a transfer student under IC 20-26-11-6 or entitled to be counted for ADM purposes as a resident of the school corporation when attending its schools under any other applicable law or regulation;
- (4) the state is responsible for the payment of transfer tuition to the school corporation for the pupil under IC 20-26-11; or
- (5) all of the following apply:
 - (A) The school corporation is a transferee corporation.
 - (B) The pupil does not qualify as a qualified pupil in the transferee corporation under subdivision (3) or (4).
 - (C) The transferee corporation's attendance area includes a state licensed private or public health care facility **or** child care facility **or** foster family home where the pupil was placed:
 - (i) by or with the consent of the department of child services;
 - (ii) by a court order;
 - (iii) by a child placing agency licensed by the ~~division of family resources~~; **or department of child services**;
 - (iv) by a parent or guardian under IC 20-26-11-8; **or**
 - (v) **by or with the consent of the department under IC 20-35-6-2.**

(b) For purposes of a vocational education grant, an eligible pupil includes a student enrolled in a charter school.

SECTION 6. IC 31-34-20-5, AS AMENDED BY P.L.13-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5. (a) This section applies if a juvenile court:**

- (1) places a child;
- (2) changes the placement of a child; or
- (3) reviews the implementation of a decree under IC 31-34-21 of a child placed;

in a state licensed private or public health care facility, child care facility, ~~or~~ foster family home, or the home of a relative or

other unlicensed caretaker.

(b) The juvenile court shall do the following:

- (1) Make findings of fact concerning the legal settlement of the child.
- (2) Apply IC 20-26-11-2(1) through IC 20-26-11-2(8) to determine where the child has legal settlement.
- (3) Include the findings of fact required by this section in:
 - (A) the dispositional order;
 - (B) the modification order; or
 - (C) the other decree;

making or changing the placement of the child.

(c) The juvenile court may determine that the legal settlement of the child is in the school corporation in which the child will attend school under IC 20-26-11-8(d).

(~~or~~) (d) The juvenile court shall comply with the reporting requirements under IC 20-26-11-9 concerning the legal settlement of the child.

(e) The juvenile court may place a child in a public school regardless of whether the public school has a waiting list for admissions if the court determines that the school's program meets the child's educational needs and the school agrees to the placement. A placement under this subsection does not affect the legal settlement of the child.

SECTION 7. IC 31-37-19-26, AS AMENDED BY P.L.13-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 26. (a) This section applies if a juvenile court:**

- (1) places a child;
- (2) changes the placement of a child; or
- (3) reviews the implementation of a decree under IC 31-37-20 (or IC 31-6-4-19 before its repeal) of a child placed;

in a state licensed private or public health care facility, child care facility, ~~or~~ foster family home, or the home of a relative or other unlicensed caretaker.

(b) The juvenile court shall do the following:

- (1) Make findings of fact concerning the legal settlement of the child.
- (2) Apply IC 20-26-11-2(1) through IC 20-26-11-2(8) to determine where the child has legal settlement.
- (3) Include the findings of fact required by this section in the:
 - (A) dispositional order;
 - (B) modification order; or
 - (C) other decree;

making or changing the placement of the child.

(c) The juvenile court may determine that the legal settlement of the child is in the school corporation in which the child will attend school under IC 20-26-11-8(d).

(~~or~~) (d) The juvenile court shall comply with the reporting requirements under IC 20-26-11-9 concerning the legal settlement of the child.

(e) The juvenile court may place a child in a public school regardless of whether the public school has a waiting list for admissions if the court determines that the school's program meets the child's educational needs and the school agrees to the placement. A placement under this subsection does not affect the legal settlement of the child.

(Reference is to ESB 330 as reprinted April 4, 2007.)

C. LAWSON	SUMMERS
ROGERS	NOE
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 103-1; filed April 26, 2007, at 6:39 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House

Amendments to Engrossed Senate Bill 103 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-14-1.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. For the purposes of this chapter:

(a) "Public agency", **except as provided in section 2.1 of this chapter**, means the following:

- (1) Any board, commission, department, agency, authority, or other entity, by whatever name designated, exercising a portion of the executive, administrative, or legislative power of the state.
- (2) Any county, township, school corporation, city, town, political subdivision, or other entity, by whatever name designated, exercising in a limited geographical area the executive, administrative, or legislative power of the state or a delegated local governmental power.
- (3) Any entity which is subject to either:
 - (A) budget review by either the department of local government finance or the governing body of a county, city, town, township, or school corporation; or
 - (B) audit by the state board of accounts **that is required by statute, rule, or regulation.**
- (4) Any building corporation of a political subdivision of the state of Indiana that issues bonds for the purpose of constructing public facilities.
- (5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.
- (6) The Indiana gaming commission established by IC 4-33, including any department, division, or office of the commission.
- (7) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

(b) "Governing body" means two (2) or more individuals who are:

- (1) a public agency that:
 - (A) is a board, a commission, an authority, a council, a committee, a body, or other entity; and
 - (B) takes official action on public business;
- (2) the board, commission, council, or other body of a public agency which takes official action upon public business; or
- (3) any committee appointed directly by the governing body or its presiding officer to which authority to take official action upon public business has been delegated. An agent or agents appointed by the governing body to conduct collective bargaining on behalf of the governing body does not constitute a governing body for purposes of this chapter.

(c) "Meeting" means a gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business. It does not include:

- (1) any social or chance gathering not intended to avoid this chapter;
- (2) any on-site inspection of any: ~~project or program~~;
 - (A) **project**;
 - (B) **program**; or
 - (C) **facilities of applicants for incentives or assistance from the governing body**;
- (3) traveling to and attending meetings of organizations

devoted to betterment of government; or

(4) a caucus;

(5) a gathering to discuss an industrial or a commercial prospect that does not include a conclusion as to recommendations, policy, decisions, or final action on the terms of a request or an offer of public financial resources;

(6) an orientation of members of the governing body on their role and responsibilities as public officials, but not for any other official action; or

(7) a gathering for the sole purpose of administering an oath of office to an individual.

(d) "Official action" means to:

- (1) receive information;
- (2) deliberate;
- (3) make recommendations;
- (4) establish policy;
- (5) make decisions; or
- (6) take final action.

(e) "Public business" means any function upon which the public agency is empowered or authorized to take official action.

(f) "Executive session" means a meeting from which the public is excluded, except the governing body may admit those persons necessary to carry out its purpose.

(g) "Final action" means a vote by the governing body on any motion, proposal, resolution, rule, regulation, ordinance, or order.

(h) "Caucus" means a gathering of members of a political party or coalition which is held for purposes of planning political strategy and holding discussions designed to prepare the members for taking official action.

(i) "Deliberate" means a discussion which may reasonably be expected to result in official action (defined under subsection (d)(3), (d)(4), (d)(5), or (d)(6)).

(j) "News media" means all newspapers qualified to receive legal advertisements under IC 5-3-1, all news services (as defined in IC 34-6-2-87), and all licensed commercial or public radio or television stations.

(k) "Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

SECTION 2. IC 5-14-1.5-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.1. "Public agency", **for purposes of this chapter, does not mean a provider of goods, services, or other benefits that meets the following requirements:**

(1) The provider receives public funds through an agreement with the state, a county, or a municipality that meets the following requirements:

(A) The agreement provides for the payment of fees to the entity in exchange for services, goods, or other benefits.

(B) The amount of fees received by the entity under the agreement is not based upon or does not involve a consideration of the tax revenues or receipts of the state, county, or municipality.

(C) The amount of the fees are negotiated by the entity and the state, county, or municipality.

(D) The state, county, or municipality is billed for fees by the entity for the services, goods, or other benefits actually provided by the entity.

(2) The provider is not required by statute, rule, or regulation to be audited by the state board of accounts.

SECTION 3. IC 5-14-1.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Except as provided in section 6.1 of this chapter, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them.

(b) A secret ballot vote may not be taken at a meeting.

(c) A meeting conducted in compliance with IC 5-1.5-2-2.5 does not violate this section.

(d) A member of the governing body of a public agency who is not physically present at a meeting of the governing body but who communicates with members of the governing body during the meeting by telephone, computer, videoconferencing, or any other electronic means of communication:

- (1) may not participate in final action taken at the meeting unless the member's participation is expressly authorized by statute; and
- (2) may not be considered to be present at the meeting unless considering the member to be present at the meeting is expressly authorized by statute.

(e) The memoranda of a meeting prepared under section 4 of this chapter that a member participates in by using a means of communication described in subsection (d) must state the name of:

- (1) each member who was physically present at the place where the meeting was conducted;
- (2) each member who participated in the meeting by using a means of communication described in this section; and
- (3) each member who was absent.

SECTION 4. IC 5-14-1.5-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3.1. (a) Except as provided in subsection (b), the governing body of a public agency violates this chapter if members of the governing body participate in a series of at least two (2) gatherings of members of the governing body and the series of gatherings meets all of the following criteria:

- (1) One (1) of the gatherings is attended by at least three (3) members but less than a quorum of the members of the governing body and the other gatherings include at least two (2) members of the governing body.
- (2) The sum of the number of different members of the governing body attending any of the gatherings at least equals a quorum of the governing body.
- (3) All the gatherings concern the same subject matter and are held within a period of not more than seven (7) consecutive days.
- (4) The gatherings are held to take official action on public business.

For purposes of this subsection, a member of a governing body attends a gathering if the member is present at the gathering in person or if the member participates in the gathering by telephone or other electronic means, excluding electronic mail.

(b) This subsection applies only to the city-county council of a consolidated city or county having a consolidated city. The city-county council violates this chapter if its members participate in a series of at least two (2) gatherings of members of the city-county council and the series of gatherings meets all of the following criteria:

- (1) One (1) of the gatherings is attended by at least five (5) members of the city-county council and the other gatherings include at least three (3) members of the city-county council.
- (2) The sum of the number of different members of the city-county council attending any of the gatherings at least equals a quorum of the city-county council.
- (3) All the gatherings concern the same subject matter and are held within a period of not more than seven (7) consecutive days.
- (4) The gatherings are held to take official action on public business.

For purposes of this subsection, a member of the city-county

council attends a gathering if the member is present at the gathering in person or if the member participates in the gathering by telephone or other electronic means, excluding electronic mail.

(c) A gathering under subsection (a) or (b) does not include:

- (1) a social or chance gathering not intended by any member of the governing body to avoid the requirements of this chapter;
- (2) an onsite inspection of any:
 - (A) project;
 - (B) program; or
 - (C) facilities of applicants for incentives or assistance from the governing body;
- (3) traveling to and attending meetings of organizations devoted to the betterment of government;
- (4) a caucus;
- (5) a gathering to discuss an industrial or a commercial prospect that does not include a conclusion as to recommendations, policy, decisions, or final action on the terms of a request or an offer of public financial resources;
- (6) an orientation of members of the governing body on their role and responsibilities as public officials, but not for any other official action;
- (7) a gathering for the sole purpose of administering an oath of office to an individual; or
- (8) a gathering between less than a quorum of the members of the governing body intended solely for members to receive information and deliberate on whether a member or members may be inclined to support a member's proposal or a particular piece of legislation and at which no other official action will occur.

(d) A violation described in subsection (a) or (b) is subject to section 7 of this chapter.

SECTION 5. IC 5-14-1.5-6.1, AS AMENDED BY P.L.101-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6.1. (a) As used in this section, "public official" means a person:

- (1) who is a member of a governing body of a public agency; or
- (2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

- (1) Where authorized by federal or state statute.
- (2) For discussion of strategy with respect to any of the following:
 - (A) Collective bargaining.
 - (B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing.
 - (C) The implementation of security systems.
 - (D) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is executed by the parties.

However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.

(4) Interviews and negotiations with industrial or commercial prospects or agents of industrial or commercial prospects by the Indiana economic development corporation, the office of tourism development, the Indiana finance authority, or an economic development ~~commissions; commission, a local economic development organization~~ (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision.

(5) To receive information about and interview prospective employees.

(6) With respect to any individual over whom the governing body has jurisdiction:

(A) to receive information concerning the individual's alleged misconduct; and

(B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:

(i) a physician; or

(ii) a school bus driver.

(7) For discussion of records classified as confidential by state or federal statute.

(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.

(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.

(10) When considering the appointment of a public official, to do the following:

(A) Develop a list of prospective appointees.

(B) Consider applications.

(C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

(11) To train school board members with an outside consultant about the performance of the role of the members as public officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 15-5-1.1 or IC 25.

(13) To discuss information and intelligence intended to prevent, mitigate, or respond to the threat of terrorism.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

SECTION 6. IC 5-14-1.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) An action may be filed by any person in any court of competent jurisdiction to:

(1) obtain a declaratory judgment;

(2) enjoin continuing, threatened, or future violations of this chapter; or

(3) declare void any policy, decision, or final action:

(A) taken at an executive session in violation of section 3(a) of this chapter;

(B) taken at any meeting of which notice is not given in accordance with section 5 of this chapter;

(C) that is based in whole or in part upon official action taken at any:

(i) executive session in violation of section 3(a) of this chapter; ~~or at any~~

(ii) meeting of which notice is not given in accordance with section 5 of this chapter; or

(iii) **series of gatherings in violation of section 3.1 of this chapter; or**

(D) taken at a meeting held in a location in violation of section 8 of this chapter.

The plaintiff need not allege or prove special damage different from that suffered by the public at large.

(b) Regardless of whether a formal complaint or an informal inquiry is pending before the public access counselor, any action to declare any policy, decision, or final action of a governing body void, or to enter an injunction which would invalidate any policy, decision, or final action of a governing body, based on violation of this chapter occurring before the action is commenced, shall be commenced:

(1) prior to the delivery of any warrants, notes, bonds, or obligations if the relief sought would have the effect, if granted, of invalidating the notes, bonds, or obligations; or

(2) with respect to any other subject matter, within thirty (30) days of either:

(A) the date of the act or failure to act complained of; or

(B) the date that the plaintiff knew or should have known that the act or failure to act complained of had occurred;

whichever is later. If the challenged policy, decision, or final action is recorded in the memoranda or minutes of a governing body, a plaintiff is considered to have known that the act or failure to act complained of had occurred not later than the date that the memoranda or minutes are first available for public inspection.

(c) If a court finds that a governing body of a public agency has violated this chapter, it may not find that the violation was cured by the governing body by only having taken final action at a meeting that complies with this chapter.

(d) In determining whether to declare any policy, decision, or final action void, a court shall consider the following factors among other relevant factors:

(1) The extent to which the violation:

(A) affected the substance of the policy, decision, or final action;

(B) denied or impaired access to any meetings that the public had a right to observe and record; and

(C) prevented or impaired public knowledge or understanding of the public's business.

(2) Whether voiding of the policy, decision, or final action is a necessary prerequisite to a substantial reconsideration of the subject matter.

(3) Whether the public interest will be served by voiding the policy, decision, or final action by determining which of the following factors outweighs the other:

(A) The remedial benefits gained by effectuating the public policy of the state declared in section 1 of this chapter.

(B) The prejudice likely to accrue to the public if the policy, decision, or final action is voided, including the extent to which persons have relied upon the validity of the challenged action and the effect declaring the challenged action void would have on them.

(4) Whether the defendant acted in compliance with an informal inquiry response or advisory opinion issued by the

public access counselor concerning the violation.

(e) If a court declares a policy, decision, or final action of a governing body of a public agency void, the court may enjoin the governing body from subsequently acting upon the subject matter of the voided act until it has been given substantial reconsideration at a meeting or meetings that comply with this chapter.

(f) In any action filed under this section, a court shall award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

- (1) the plaintiff prevails; or
- (2) the defendant prevails and the court finds that the action is frivolous and vexatious.

The plaintiff is not eligible for the awarding of attorney's fees, court costs, and other reasonable expenses if the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the public access counselor, unless the plaintiff can show the filing of the action was necessary to prevent a violation of this chapter.

(g) A court shall expedite the hearing of an action filed under this section.

SECTION 7. IC 5-14-3-2, AS AMENDED BY P.L.1-2006, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.

(c) "Direct cost" means one hundred five percent (105%) of the sum of the cost of:

- (1) the initial development of a program, if any;
- (2) the labor required to retrieve electronically stored data; and
- (3) any medium used for electronic output;

for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section 6(c) of this chapter.

(d) "Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.

(e) "Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

- (1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or
- (2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

(f) "Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

(g) "Inspect" includes the right to do the following:

- (1) Manually transcribe and make notes, abstracts, or memoranda.
- (2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.
- (3) In the case of public records available:
 - (A) by enhanced access under section 3.5 of this chapter; or
 - (B) to a governmental entity under section 3(c)(2) of this chapter;

to examine and copy the public records by use of an electronic device.

- (4) In the case of electronically stored data, to manually transcribe and make notes, abstracts, or memoranda or to duplicate the data onto a disk, tape, drum, or any other

medium of electronic storage.

(h) "Investigatory record" means information compiled in the course of the investigation of a crime.

(i) "Patient" has the meaning set out in IC 16-18-2-272(d).

(j) "Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

(k) "Provider" has the meaning set out in ~~IC 16-18-2-295(a)~~ **IC 16-18-2-295(b)** and includes employees of the state department of health or local boards of health who create patient records at the request of another provider or who are social workers and create records concerning the family background of children who may need assistance.

(l) "Public agency", **except as provided in section 2.1 of this chapter**, means the following:

(1) Any board, commission, department, division, bureau, committee, agency, office, instrumentality, or authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state.

(2) Any:

(A) county, township, school corporation, city, or town, or any board, commission, department, division, bureau, committee, office, instrumentality, or authority of any county, township, school corporation, city, or town;

(B) political subdivision (as defined by IC 36-1-2-13); or

(C) other entity, or any office thereof, by whatever name designated, exercising in a limited geographical area the executive, administrative, judicial, or legislative power of the state or a delegated local governmental power.

(3) Any entity or office that is subject to:

(A) budget review by either the department of local government finance or the governing body of a county, city, town, township, or school corporation; or

(B) an audit by the state board of accounts **that is required by statute, rule, or regulation**.

(4) Any building corporation of a political subdivision that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting attorneys, members of the excise police division of the alcohol and tobacco commission, conservation officers of the department of natural resources, gaming agents of the Indiana gaming commission, and the security division of the state lottery commission.

(7) Any license branch staffed by employees of the bureau of motor vehicles commission under IC 9-16.

(8) The state lottery commission established by IC 4-30-3-1, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

(m) "Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with

a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

(n) "Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 ½) inches by eleven (11) inches or eight and one-half (8 ½) inches by fourteen (14) inches.

(o) "Trade secret" has the meaning set forth in IC 24-2-3-2.

(p) "Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation. The term includes the attorney's:

- (1) notes and statements taken during interviews of prospective witnesses; and
- (2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

This definition does not restrict the application of any exception under section 4 of this chapter.

SECTION 8. IC 5-14-3-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2.1. "Public agency", for purposes of this chapter, does not mean a provider of goods, services, or other benefits that meets the following requirements:**

(1) The provider receives public funds through an agreement with the state, a county, or a municipality that meets the following requirements:

(A) The agreement provides for the payment of fees to the entity in exchange for services, goods, or other benefits.

(B) The amount of fees received by the entity under the agreement is not based upon or does not involve a consideration of the tax revenues or receipts of the state, county, or municipality.

(C) The amount of the fees are negotiated by the entity and the state, county, or municipality.

(D) The state, county, or municipality is billed for fees by the entity for the services, goods, or other benefits actually provided by the entity.

(2) The provider is not required by statute, rule, or regulation to be audited by the state board of accounts.

SECTION 9. IC 5-14-3-4, AS AMENDED BY P.L.101-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
- (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
- (3) Those required to be kept confidential by federal law.
- (4) Records containing trade secrets.
- (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
- (6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:
 - (A) concerning any negotiations made with respect to the research; and
 - (B) received from another party involved in the research.
- (7) Grade transcripts and license examination scores obtained as part of a licensure process.
- (8) Those declared confidential by or under rules adopted

by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the board of the Indiana economic development corporation under IC 5-28-16.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(12) A Social Security number contained in the records of a public agency.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between the Indiana economic development corporation, the Indiana finance authority, ~~or an economic development commissions,~~ **commission, a local economic development organization (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision** with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the Indiana finance authority, ~~or an economic development commissions~~ **commission, or a governing body of a political subdivision** to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

- (C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged. However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.
- (9) Minutes or records of hospital medical staff meetings.
- (10) Administrative or technical information that would jeopardize a record keeping or security system.
- (11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.
- (12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).
- (13) The work product of the legislative services agency under personnel rules approved by the legislative council.
- (14) The work product of individual members and the partisan staffs of the general assembly.
- (15) The identity of a donor of a gift made to a public agency if:
- (A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or
 - (B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.
- (16) Library or archival records:
- (A) which can be used to identify any library patron; or
 - (B) deposited with or acquired by a library upon a condition that the records be disclosed only:
 - (i) to qualified researchers;
 - (ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or
 - (iii) after the death of persons specified at the time of the acquisition or deposit.
- However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.
- (17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations.
- (18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.
- (19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:
- (A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;
 - (B) vulnerability assessments;
 - (C) risk planning documents;
 - (D) needs assessments;
 - (E) threat assessments;
 - (F) intelligence assessments;

- (G) domestic preparedness strategies;
- (H) the location of community drinking water wells and surface water intakes;
- (I) the emergency contact information of emergency responders and volunteers;
- (J) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and
- (K) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. The public agency that owns, occupies, leases, or maintains the airport:
 - (i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and
 - (ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

- (20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):
- (A) Telephone number.
 - (B) Address.
 - (C) Social Security number.
- (21) The following personal information about a complainant contained in records of a law enforcement agency:
- (A) Telephone number.
 - (B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Notwithstanding subsection (d) and section 7 of this chapter:

- (1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or
- (2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 10. IC 8-1-2.2-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2007]: Sec. 31. (a) This section applies to a meeting of the board of commissioners of a joint agency at which at least a quorum of the board is physically present at the place where the meeting is conducted.

(b) A member of the board of commissioners of a joint agency may participate in a meeting of the board of commissioners by using a means of communication that permits:

- (1) all other members participating in the meeting; and
- (2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(c) A member of the board of commissioners of a joint agency who participates in a meeting by using a means of communication described in subsection (b) is considered to be present at the meeting.

(d) The memoranda of a meeting of the board of commissioners of a joint agency prepared under IC 5-14-1.5-4 must state the name of:

- (1) each member who was physically present at the place where the meeting was conducted;
- (2) each member who participated in the meeting by using a means of communication described in subsection (b); and
- (3) each member who was absent.

SECTION 11. IC 21-22-3-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) This section applies to a meeting of the state board or a committee of the state board at which at least a quorum of the board or the committee is physically present at the place where the meeting is conducted.

(b) A member of the state board or a committee of the state board may participate in a meeting of the state board or a committee of the state board by using a means of communication that permits:

- (1) all other members participating in the meeting; and
- (2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(c) A member who participates in a meeting by using a means of communication described in subsection (b) is considered to be present at the meeting.

(d) The memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of:

- (1) each member who was physically present at the place where the meeting was conducted;
- (2) each member who participated in the meeting by using a means of communication described in subsection (b); and
- (3) each member who was absent.

SECTION 12. IC 21-25-3-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) This section applies to a meeting of the board of trustees or a committee of the board of trustees at which at least a quorum of the board or the committee is physically present at the place where the meeting is conducted.

(b) A member of the board or a committee of the board may participate in a meeting of the board or the committee by using a means of communication that permits:

- (1) all other members participating in the meeting; and
- (2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(c) A member who participates in a meeting by using a means of communication described in subsection (b) is

considered to be present at the meeting.

(d) The memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of:

- (1) each member who was physically present at the place where the meeting was conducted;
- (2) each member who participated in the meeting by using a means of communication described in subsection (b); and
- (3) each member who was absent.

SECTION 13. IC 21-27-2-2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) This section applies to a meeting of the board of trustees or a committee of the board of trustees of any state educational institution (as defined in IC 21-7-13-32).

(b) A member of the board of trustees may participate in a meeting of the board:

- (1) at which at least a quorum is physically present at the place where the meeting is conducted; and
- (2) by using a means of communication that permits:
 - (A) all other members participating in the meeting; and
 - (B) all members of the public physically present at the place where the meeting is conducted;
 to simultaneously communicate with each other during the meeting.

(c) A member of a committee of the board of trustees may participate in a committee meeting by using a means of communication that permits:

- (1) all other members participating in the meeting; and
- (2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(d) A member who participates in a meeting under subsection (b) or (c) is considered to be present at the meeting.

(e) The memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of:

- (1) each member who was physically present at the place where the meeting was conducted;
- (2) each member who participated in the meeting by using a means of communication described in subsection (b) or (c); and
- (3) each member who was absent.

SECTION 14. IC 25-1-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 14. Meetings

Sec. 1. This section applies to a meeting of a board, committee, or commission listed in IC 25-1-5-3 or IC 25-1-6-3.

Sec. 2. A member of a board, committee, or commission may participate in a meeting of the board, committee, or commission:

- (1) at which at least a quorum is physically present at the place where the meeting is conducted; and
- (2) by using a means of communication that permits:
 - (A) all other members participating in the meeting; and
 - (B) all members of the public physically present at the place where the meeting is conducted;
 to simultaneously communicate with each other during the meeting.

Sec. 3. A member who participates in a meeting under section 2 of this chapter:

- (1) is considered to be present at the meeting;
- (2) shall be counted for purposes of establishing a quorum; and
- (3) may vote at the meeting.

Sec. 4. The memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of:

- (1) each member who was physically present at the place where the meeting was conducted;**
- (2) each member who participated in the meeting by using a means of communication described in section 2 of this chapter; and**
- (3) each member who was absent.**

(Reference is to ESB 103 as reprinted March 27, 2007.)

GARD	STILWELL
LANANE	KOCH
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 261-1; filed April 26, 2007, at 6:40 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 261 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 32-25-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Each condominium unit owner is entitled to an undivided interest in the common areas and facilities as designated in the declaration. Except as provided in subsection (b), the undivided interest must be expressed as a percentage interest based on:

- (1) the size of the unit in relation to the size of all units in the condominium;
- (2) the value of each condominium unit in relation to the value of all condominium units in the condominium; or
- (3) the assignment of an equal percentage undivided interest to each condominium unit.

An undivided interest allocated to each condominium unit in accordance with this subsection must be indicated in a schedule of undivided interests in the declaration. However, if the declaration does not specify the method of allocating the percentage undivided interests, an equal percentage undivided interest applies to each condominium unit. The total undivided interests allocated in accordance with subdivision (1) or (2) must equal one hundred percent (100%).

(b) With respect to an expandable condominium, the declaration may allocate undivided interests in the common area on the basis of value if:

- (1) the declaration prohibits the creation of any condominium units not substantially identical to the condominium units depicted on the recorded plans of the declaration; or
- (2) the declaration:
 - (A) prohibits the creation of any condominium units not described in the initial declaration; and
 - (B) contains a statement on the value to be assigned to each condominium unit created after the date of the declaration.

(c) Interests in the common areas may not be allocated to any condominium units to be created within any additional land until the plats and plans and supplemental declaration depicting the condominium units to be created are recorded. Simultaneously with the recording of the plats and plans for the condominium units to be created, the declarant must execute and record an amendment to the initial declaration reallocating undivided interests in the common areas so that the future condominium

units depicted on the plats and plans will be allocated undivided interests in the common areas on the same basis as the condominium units depicted in the prior recorded plats and plans.

(d) Except as provided in **section 3.5 of this chapter and in IC 32-25-8-3**, the undivided interest of the owner of the condominium unit in the common areas and facilities, as expressed in the declaration, is permanent and may not be altered without the consent of the co-owners. A consent to alteration must be stated in an amended declaration, and the amended declaration must be recorded. The undivided interest may not be transferred, encumbered, disposed of, or separated from the condominium unit to which it appertains, and any purported transfer, encumbrance, or other disposition is void. The undivided interest is considered to be conveyed or encumbered with the condominium unit to which it appertains even though the undivided interest is not expressly mentioned or described in the conveyance or other instrument.

(e) The common areas and facilities shall remain undivided. A condominium unit owner or any other person may bring an action for partition or division of any part of the common areas and facilities if the property has been removed from this chapter as provided in IC 32-25-8-12 and IC 32-25-8-16. Any covenant to the contrary is void.

(f) Each condominium unit owner:

- (1) may use the common areas and facilities in accordance with the purpose for which the common areas and facilities were intended; and
- (2) may not, in the owner's use of the common areas and facilities, hinder or encroach upon the lawful rights of the other co-owners.

(g) The:

(1) necessary work of:

- (A) maintenance;
- (B) repair; and
- (C) replacement;

of the common areas and facilities; and

(2) making of any additions or improvements to the common areas and facilities;

may be carried out only as provided in this chapter and in the bylaws.

(h) The association of condominium unit owners has the irrevocable right, to be exercised by the manager or board of directors, to have access to each condominium unit from time to time during reasonable hours as is necessary for:

(1) the maintenance, repair, or replacement of any of the common areas and facilities:

- (A) in the condominium unit; or
- (B) accessible from the condominium unit; or

(2) making emergency repairs in the condominium unit necessary to prevent damage to:

- (A) the common areas and facilities; or
- (B) another condominium unit.

SECTION 2. IC 32-25-4-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 3.5. (a) Except as otherwise provided in a statement described in:**

(1) IC 32-25-7-1(a)(10) and included in:

- (A) the declaration; or**
- (B) an amendment to the declaration, if the amendment is approved by at least ninety-five percent (95%) of co-owners; or**

(2) IC 32-25-8-2(12) and included in:

- (A) the bylaws; or**
- (B) an amendment to the bylaws, if the amendment is approved by the percentage of votes set forth in the bylaws under IC 32-25-8-2(11);**

part or all of the common areas and facilities of a condominium may be conveyed or subjected to a security

interest by the association of co-owners if at least ninety-five percent (95%) of the co-owners, including at least ninety-five percent (95%) of the co-owners of condominium units not owned by the declarant, agree to the action. However, if the common areas and facilities proposed to be conveyed or encumbered under this section include any limited common areas and facilities, all the owners of the limited common areas and facilities to be conveyed or encumbered must agree to the conveyance or encumbrance.

(b) An agreement to convey or encumber common areas and facilities under this section must be evidenced by an agreement:

(1) executed in the same manner as a deed or any other instrument recognized by the state for the conveyance or transfer of interests in title; and

(2) signed by:

(A) at least ninety-five percent (95%) of the co-owners, as required by this section; or

(B) another percentage of the co-owners specified in a statement described in subsection (a)(1) or (a)(2).

An agreement under this subsection is effective upon being recorded.

(c) Proceeds from the conveyance or encumbrance of common areas and facilities under this section shall be distributed to co-owners as common profits under IC 32-25-8-6. However, if the common areas and facilities conveyed or encumbered under this section include limited common areas and facilities, proceeds from the conveyance or encumbrance of the limited common areas and facilities shall be distributed to the owners of the limited common areas and facilities according to the percentage of the owners' undivided interest in the limited common areas and facilities.

(d) A conveyance or encumbrance of common areas and facilities not made in accordance with:

(1) this section; or

(2) a statement described in subsection (a)(1) or (a)(2); is void.

SECTION 3. IC 32-25-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) The owner of the land on which a condominium is declared shall record with the recorder of the county in which the land is situated a declaration. Except as provided in section 2 or 3 of this chapter, the declaration must include the following:

(1) A description of the land on which the building and improvements are or are to be located.

(2) A description of the building, stating:

(A) the number of stories and basements; and

(B) the number of condominium units.

(3) A description of the common areas and facilities.

(4) A description of the limited common areas and facilities, if any, stating to which condominium units their use is reserved.

(5) The percentage of undivided interest in the common areas and facilities appertaining to each condominium unit and its owner for all purposes, including voting.

(6) A statement of the percentage of votes by the condominium unit owners required to determine whether to:

(A) rebuild;

(B) repair;

(C) restore; or

(D) sell;

the property if all or part of the property is damaged or destroyed.

(7) Any covenants and restrictions in regard to the use of:

(A) the condominium units; and

(B) common areas and facilities.

(8) Any further details in connection with the property that:

(A) the person executing the declaration considers

desirable; and

(B) are consistent with this article.

(9) The method by which the declaration may be amended in a manner consistent with this chapter.

(10) A statement of the percentage of votes by the condominium unit owners required to convey or encumber part or all of the common areas and facilities. A statement under this subdivision may not allow less than ninety-five percent (95%) of the condominium unit owners, or less than ninety-five percent (95%) of the owners of condominium units not owned by the declarant, to convey or encumber part or all of the common areas and facilities. If the declaration does not include a statement under this subdivision, IC 32-25-4-3.5 applies.

(b) A true copy of the bylaws shall be annexed to and made a part of the declaration.

(c) The record of the declaration shall contain a reference to the:

(1) book;

(2) page; and

(3) date of record;

of the floor plans of the building affected by the declaration.

SECTION 4. IC 32-25-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. The bylaws must provide for the following:

(1) With respect to the board of directors:

(A) the election of the board from among the co-owners;

(B) the number of persons constituting the board;

(C) the expiration of the terms of at least one-third (1/3) of the directors annually;

(D) the powers and duties of the board, including whether the board may engage the services of a manager or managing agent;

(E) the compensation, if any, of the directors; and

(F) the method of removal from office of directors.

(2) The method of calling meetings of the co-owners and the percentage, if other than a majority of co-owners, that constitutes a quorum.

(3) The election from among the board of directors of a president, who shall preside over the meetings of:

(A) the board of directors; and

(B) the association of co-owners.

(4) The election of a secretary, who shall keep the minute book in which resolutions shall be recorded.

(5) The election of a treasurer, who shall keep the financial records and books of account.

(6) The maintenance, repair, and replacement of the common areas and facilities and payments for that maintenance, repair, and replacement, including the method of approving payment vouchers.

(7) The manner of collecting from each condominium owner the owner's share of the common expenses.

(8) The designation and removal of personnel necessary for the maintenance, repair, and replacement of the common areas and facilities.

(9) The method of adopting and of amending administrative rules governing the details of the operation and use of the common areas and facilities.

(10) The restrictions on and requirements respecting the use and maintenance of the condominium units and the use of the common areas and facilities that are:

(A) not set forth in the declaration; and

(B) designed to prevent unreasonable interference with the use of their respective units and of the common areas and facilities by the several co-owners.

(11) The percentage of votes required to amend the bylaws.

(12) A statement of the percentage of votes by the condominium unit owners required to convey or

encumber part or all of the common areas and facilities. A statement under this subdivision may not allow less than ninety-five percent (95%) of the condominium unit owners, or less than ninety-five percent (95%) of the owners of condominium units not owned by the declarant, to convey or encumber part or all of the common areas and facilities. If the bylaws do not include a statement under this subdivision, IC 32-25-4-3.5 applies.

(+2) (13) Other provisions consistent with this article considered necessary for the administration of the property. (Reference is to ESB 261 as printed April 3, 2007.)

HEINOLD	DEMBOWSKI
TALLIAN	DERMODY
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT ESB 113-1; filed April 26, 2007, at 6:42 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 113 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 36-10-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A ~~municipal~~ city board consists of four (4) members to be appointed by the city executive. ~~of the municipality.~~ The members shall be appointed on the basis of their interest in and knowledge of parks and recreation, but no more than two (2) members may be affiliated with the same political party. ~~Members of a town board must be residents of the district.~~ In addition, the creating ordinance may provide for one (1) or two (2) ex officio members, those being:

- (1) a member
 - (A) of the governing body of the school corporation selected by that body; or
 - (B) designated by the governing body of the school corporation if the board is in a town;
- (2) a member of the governing body of the library district selected by that body; or
- (3) both subdivisions (1) and (2).

(b) A town board consists of four (4) members to be appointed by the town legislative body. The members shall be appointed on the basis of their interest in and knowledge of parks and recreation. Except as provided in section 4.1 of this chapter, not more than two (2) members may be affiliated with the same political party. Members of the board must be residents of the district. In addition, the creating ordinance may provide for one (1) or two (2) ex officio members, those being:

- (1) a member:
 - (A) of the governing body of the school corporation selected by that body; or
 - (B) designated by the governing body of the school corporation;
- (2) a member of the governing body of the library district selected by that body; or
- (3) both subdivisions (1) and (2).

(+2) (c) A county board shall be appointed as follows:

- (1) Two (2) members shall be appointed by the judge of the circuit court.

(2) One (1) member shall be appointed by the county executive.

(3) Two (2) members shall be appointed by the county fiscal body.

The members appointed under subdivisions (1), (2), and (3) shall be appointed on the basis of their interest in and knowledge of parks and recreation, but no more than one (1) member appointed under subdivisions (1) and (3) may be affiliated with the same political party. In a county having at least one (1) first or second class city, the creating ordinance must provide for one (1) ex officio board member to be appointed by the executive of that city. The member appointed by the city executive must be affiliated with a different political party than the member appointed by the county executive. However, if a county has more than one (1) such city, the executives of those cities shall agree on the member. The member serves for a term coterminous with the term of the appointing executive or executives.

(+2) (d) Ex officio members have all the rights of regular members, including the right to vote. A vacancy in an ex officio position shall be filled by the appointing authority.

(+2) (e) Neither a municipal executive nor a member of a county fiscal body, county executive, or municipal fiscal body may serve on a board.

(+2) (f) The creating ordinance in any county may provide for:

- (1) the county cooperative extension coordinator;
- (2) the county extension educator; or
- (3) a member of the county extension committee selected by the committee;

to serve as an ex officio member of the county board, in addition to the members provided for under subsection ~~(b)~~ (c).

(+2) (g) The creating ordinance in a county having no first or second class cities may provide for a member of the county board to be selected by the board of supervisors of a soil and water conservation district in which a facility of the county board is located. The member selected under this subsection is in addition to the members provided for under subsections ~~(b)~~ (c) and ~~(e)~~ (f).

SECTION 2. IC 36-10-3-4.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.1. A town legislative body may, by a majority vote, waive any or all of the following requirements of a town board member under section 4(b) of this chapter:

- (1) The requirement that a member of the town board be affiliated with a political party.
- (2) The requirement that not more than two (2) of the four (4) members of the town board be affiliated with the same political party.

A town legislative body may vote for a waiver only if the waiver is necessary due to the absence of persons who are willing to serve on the town board and who satisfy any or all of the requirements.

(Reference is to ESB 113 as printed March 27, 2007.)

GARD	RESKE
HUME	CHERRY
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1075 because it conflicts with SEA 526-2007 without properly recognizing the existence of SEA 526-2007, has had Engrossed House Bill 1075 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1075 be corrected as

follows:

Page 1, line 1, after "IC 4-4-28-5" insert ", AS AMENDED BY SEA 526-2007, SECTION 24,".

Page 1, line 12, delete "institution of higher education" and insert "postsecondary educational institution".

Page 1, line 13, after "school" insert "that is not a postsecondary educational institution,".

Page 3, line 23, after "IC 4-4-28-16" insert ", AS AMENDED BY SEA 526-2007, SECTION 25,".

Page 3, line 29, delete "institution of".

Page 3, line 30, delete "higher education" and insert "postsecondary educational institution".

Page 3, line 30, after "school" insert "that is not a postsecondary educational institution".

(Reference is to EHB 1075 as printed March 7, 2007.)

PELATH, Chair
WHETSTONE, R.M.M.
DAY, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 504 because it conflicts with SEA 94-2007 without properly recognizing the existence of SEA 94-2007, has had Engrossed Senate Bill 504 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 504 be corrected as follows:

Page 19, line 36, delete "P.L.2-2005" and insert "SEA 94-2007, SECTION 96,".

Page 19, line 37, delete "SECTION 48,".

Page 20, line 2, delete "a disabled person" and insert "an individual with a disability".

(Reference is to ESB 504 as reprinted April 10, 2007.)

PELATH, Chair
WHETSTONE, R.M.M.
C. BROWN, Sponsor

Report adopted.

RESOLUTIONS ON FIRST READING

House Resolution 84

Representative Cochran introduced House Resolution 84:

A HOUSE RESOLUTION recognizing Lemor Dowell.

Whereas, Lemor Dowell began New Albany Heating Air Conditioning and Electrical in 1978;

Whereas, Lemor Dowell has worked diligently throughout the years to provide outstanding service to the customers of New Albany Heating Air Conditioning and Electrical;

Whereas, Lemor Dowell is active in his community as a member of the New Albany Police Merit Board, the New Albany Building Commission, the Red Man's Club, the Elks Lodge, the VFW, and the American Legion; and

Whereas, Lemor Dowell is a businessman who strives to help the members of his community and has influenced the lives of all who came in contact with him: Therefore,

*Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana House of Representatives recognizes Lemor Dowell for his years of dedicated service to the New Albany community.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Lemor Dowell.

The resolution was read a first time and adopted by voice

vote.

MOTIONS TO CONCUR IN SENATE AMENDMENTS

HOUSE MOTION

Mr. Speaker: I move that the House reconsider its actions whereby it dissented from the Senate amendments to Engrossed House Bill 1647 and that the House now concur in the Senate amendments to said bill.

PORTER

Roll Call 601: yeas 90, nays 1. Motion prevailed.

CONFEREES AND ADVISORS APPOINTED

The Speaker announced the appointment of Representatives to conference committees on the following Engrossed House Bills (the Representative listed first is the Chair):

EHB 1774 Conferees: VanHaften and Borror
Advisors: GiaQuinta and McClain

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 2:15 p.m. with the Speaker in the Chair.

The Speaker ordered the roll of the House to be called to determine the presence or absence of a quorum. Roll Call 602: 71 present.

Representatives Noe and Pierce, who had been excused, were present.

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Act 106 for signature of the Speaker of the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Act 286 for signature of the Speaker of the House.

MARY C. MENDEL
Principal Secretary of the Senate

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT ESB 502-1; filed April 27, 2007, at 11:05 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 502 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-2.5-1-11.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE JANUARY 1, 2008]: Sec. 11.3. "Ancillary services" means services that are associated with or incidental to the provision of telecommunication services, including the following:

- (1) Detailed telecommunications billing.
- (2) Directory assistance.
- (3) Vertical services.
- (4) Voice mail services.

SECTION 2. IC 6-2.5-1-20.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 20.3. "Intrastate telecommunications service" means a telecommunications service that originates in a particular state, territory, or possession of the United States and terminates in that same state, territory, or possession.

SECTION 3. IC 6-2.5-1-22.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 22.3. "Prepaid calling service" has the meaning set forth in IC 6-2.5-12-11.

SECTION 4. IC 6-2.5-1-22.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 22.4. "Prepaid wireless calling service" means a telecommunications service that:

(1) provides the right to use mobile wireless service as well as other nontelecommunications services, including:

- (A) the download of digital products delivered electronically; and
- (B) content and ancillary services;
- (2) must be paid for in advance; and
- (3) is sold in predetermined units or dollars of which the number declines with use in a known amount.

SECTION 5. IC 6-2.5-1-27.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 27.5. (a) "Telecommunication services" means electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points.

(b) The term includes a transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing regardless of whether the service:

- (1) is referred to as voice over Internet protocol services; or
- (2) is classified by the Federal Communications Commission as enhanced or value added.
- (c) The term does not include the following:
 - (1) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser whose primary purpose for the underlying transaction is the processed data or information.
 - (2) Installation or maintenance of wiring or equipment on a customer's premises.
 - (3) Tangible personal property.
 - (4) Advertising, including but not limited to directory advertising.
 - (5) Billing and collection services provided to third parties.
 - (6) Internet access service.
 - (7) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of the services by the programming service provider. Radio and television audio and video programming services include cable service as defined in 47 U.S.C. 522(6) and audio and video programming services

delivered by commercial mobile radio service providers, as defined in 47 CFR 20.3.

(8) Ancillary services.

(9) Digital products delivered electronically, including the following:

- (A) Software.
- (B) Music.
- (C) Video.
- (D) Reading materials.
- (E) Ring tones.

SECTION 6. IC 6-2.5-1-29 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 29. "Value added nonvoice data service" means a service that otherwise meets the definition of telecommunications services in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing.

SECTION 7. IC 6-2.5-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 6. (a) ~~As used in this section, "telecommunication services" means the transmission of messages or information by or using wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. The term does not include value added services in which computer processing applications are used to act on the form, content, code, or protocol of the information for purposes other than transmission.~~

~~(b)~~ (a) A person is a retail merchant making a retail transaction when the person:

- (1) furnishes or sells an intrastate telecommunication service; and
- (2) receives gross retail income from billings or statements rendered to customers.

~~(c)~~ (b) Notwithstanding subsection ~~(b)~~, (a), a person is not a retail merchant making a retail transaction when:

- ~~(1)~~ the person provides, installs, constructs, services, or removes tangible personal property which is used in connection with the furnishing of the telecommunication services described in subsection (a);
- ~~(2)~~ (1) the person furnishes or sells the telecommunication services described in subsection (a) to another person described in this section or in section 5 of this chapter;
- ~~(3)~~ (2) the person furnishes telecommunications services described in subsection (a) to another person who is using a prepaid telephone calling card or prepaid telephone authorization number providing prepaid calling services or prepaid wireless calling services in a retail transaction to customers who access the services through the use of an access or authorization number or card as described in section 13 of this chapter; ~~or~~
- ~~(4)~~ (3) the person furnishes intrastate mobile telecommunications service (as defined in IC 6-8.1-15-7) to a customer with a place of primary use that is not located in Indiana (as determined under IC 6-8.1-15); ~~or~~
- (4) the person furnishes or sells value added nonvoice data services in a retail transaction to a customer.

~~(d)~~ (c) Subject to IC 6-2.5-12 and IC 6-8.1-15, and notwithstanding subsections (a) and (b), ~~and (c)~~, if charges for telecommunication services, ancillary services, Internet access, audio services, or video services that are not taxable under this article are aggregated with and not separately stated from charges subject to taxation under this article, the charges for nontaxable telecommunication services, ancillary services, Internet access, audio services, or video services are subject to taxation unless the service provider can reasonably identify the charges not subject to the tax from the service provider's books and records kept in the regular course of business.

SECTION 8. IC 6-2.5-8-8 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 8. (a) A person, authorized under subsection (b), who makes a purchase in a transaction which is exempt from the state gross retail and use taxes, may issue an exemption certificate to the seller instead of paying the tax. The person shall issue the certificate on forms and in the manner prescribed by the department. A seller accepting a proper exemption certificate under this section has no duty to collect or remit the state gross retail or use tax on that purchase.

(b) The following are the only persons authorized to issue exemption certificates:

- (1) retail merchants, wholesalers, and manufacturers, who are registered with the department under this chapter;
- (2) organizations which are exempt from the state gross retail tax under IC 6-2.5-5-21, IC 6-2.5-5-25, or IC 6-2.5-5-26 and which are registered with the department under this chapter; and
- (3) other persons who are exempt from the state gross retail tax with respect to any part of their purchases.

(c) The department may also allow a person to issue a blanket exemption certificate to cover exempt purchases over a stated period of time. The department may impose conditions on the use of the blanket exemption certificate and restrictions on the kind or category of purchases that are exempt.

(d) A seller that accepts an incomplete exemption certificate under subsection (a) is not relieved of the duty to collect gross retail or use tax on the sale unless the seller obtains:

- (1) a fully completed exemption certificate; or**
- (2) the relevant data to complete the exemption certificate;**

within ninety (90) days after the sale.

(e) If a seller has accepted an incomplete exemption certificate under subsection (a) and the department requests that the seller substantiate the exemption, within one hundred twenty (120) days after the department makes the request the seller shall:

- (1) obtain a fully completed exemption certificate; or**
- (2) prove by other means that the transaction was not subject to state gross retail or use tax.**

SECTION 9. IC 6-2.5-11-10, AS AMENDED BY P.L.195-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 10. (a) A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales and use taxes. As the seller's agent, the certified service provider is liable for sales and use tax due each member state on all sales transactions it processes for the seller except as set out in this section. A seller that contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider. A seller is subject to audit for transactions not processed by the certified service provider. The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

(b) A person that provides a certified automated system is responsible for the proper functioning of that system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.

(c) A seller that has a proprietary system for determining the

amount of tax due on transactions and has signed an agreement establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.

(d) A certified service provider or a seller using a certified automated system that obtains a certification from the department is not liable for sales or use tax collection errors that result from reliance on the department's certification. If the department determines that an item or transaction is incorrectly classified as to the taxability of the item or transaction, the department shall notify the certified service provider or the seller using a certified automated system of the incorrect classification. The certified service provider or the seller using a certified automated system must revise the incorrect classification within ten (10) days after receiving notice of the determination from the department. If the classification error is not corrected within ten (10) days after receiving the department's notice, the certified service provider or the seller using a certified automated system is liable for failure to collect the correct amount of sales or use tax due and owing.

(e) The department shall allow any monetary allowances that are provided by the member states to sellers or certified service providers in exchange for collecting the sales and use taxes as provided in article VI of the agreement.

SECTION 10. IC 6-2.5-11-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 11. (a) This section applies only to transactions occurring after December 31, 2008.

(b) A purchaser is relieved from liability for penalties imposed under IC 6-8.1-10-2.1 for failure to pay the amount of tax due if any of the following occurs:

(1) A purchaser's seller or certified service provider relied on erroneous data provided by the department regarding any of the following:

- (A) Tax rates.**
- (B) Boundaries.**
- (C) Taxing jurisdiction assignments.**
- (D) The taxability matrix.**

(2) A purchaser with a direct pay permit relied on erroneous data provided by the department regarding any of the following:

- (A) Tax rates.**
- (B) Boundaries.**
- (C) Taxing jurisdiction assignments.**
- (D) The taxability matrix.**

(3) A purchaser relied on erroneous data in the taxability matrix provided by the department.

(c) The department shall relieve a purchaser from liability for tax and interest for having failed to pay the correct amount of sales or use tax in the circumstances described in subsection (b); however, the relief is limited to tax and interest attributable to the department's erroneous classification in the taxability matrix of terms:

- (1) included as taxable or exempt;**
- (2) included in the sales price;**
- (3) excluded from the sales price;**
- (4) included in a definition; or**
- (5) excluded from a definition.**

SECTION 11. IC 6-2.5-11-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 12. (a) The department shall review software submitted to the governing board for certification as a certified automated system. The review is to determine that the program adequately classifies product based exemptions granted under IC 6-2.5-5. Upon satisfactory completion of the review, the department shall certify to the governing board the department's acceptance of the classifications made by the system.

(b) The governing board and the member states are not

responsible for classification of an item or a transaction within the product based exemptions certified by the department. The relief from liability provided in this section is not available to a certified service provider or Model 2 seller that has incorrectly classified an item or a transaction into a product based exemption certified by the department. This subsection does not apply to the individual listing of items or transactions within a product definition approved by the governing board or the member states.

(c) If the department determines that an item or a transaction is incorrectly classified as to the taxability of the item or transaction, the department shall notify the certified service provider or Model 2 seller of the incorrect classification. The certified service provider or Model 2 seller must revise the classification within ten (10) days after receiving notice of the determination from the department. If the classification error is not corrected within ten (10) days after receiving the department's notice, the certified service provider or Model 2 seller is liable for failure to collect the correct amount of sales or use tax due and owing.

SECTION 12. IC 6-2.5-12-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 10. As used in this chapter, "post paid calling service" means the telecommunications service obtained by making a payment on a call by call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number that is not associated with the origination or termination of the telecommunications service. A post paid calling service includes a telecommunications service, **except a prepaid wireless calling service**, that would be a prepaid calling service except it is not exclusively a telecommunications service.

SECTION 13. IC 6-2.5-12-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 11.5. As used in this chapter, "prepaid wireless calling service" means a telecommunications service that provides the right to use mobile wireless service as well as other nontelecommunications services, including the download of content, digital products delivered electronically, and ancillary services, which:

- (1) must be paid for in advance; and
- (2) are sold in predetermined units or dollars, the balance of which declines with use in a known amount.

SECTION 14. IC 6-2.5-12-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 16. The sale of the following telecommunications services shall be sourced to each level of taxing jurisdiction as follows:

(1) A sale of mobile telecommunications services, other than air to ground radiotelephone service and prepaid calling service, is sourced to the customer's place of primary use as required by the Mobile Telecommunications Sourcing Act and IC 6-8.1-15.

(2) A sale of post paid calling service is sourced to the origination point of the telecommunications signal as first identified by either:

- (A) the seller's telecommunications system; or
- (B) information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(3) A sale of prepaid calling service or a sale of prepaid wireless calling service is sourced in the following manner:

- (A) When the service is received by the purchaser at a business location of the seller, the sale is sourced to that business location.
- (B) When the service is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser (or the purchaser's donee, designated as such by the purchaser)

occurs, including the location indicated by instructions for delivery to the purchaser (or donee), known to the seller.

(C) When clauses (A) and (B) do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

(D) When clauses (A) through (C) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

(E) When clauses (A) through (D) do not apply, including the circumstance in which the seller is without sufficient information to apply the previous clauses, the location will be determined by either:

(i) the address from which tangible personal property was shipped, from which any digital good or computer software delivered electronically was first available for transmission by the seller, or from which the service was provided (disregarding for these purposes any location that merely provided the digital transfer of the product sold); or

(ii) in the case of a sale of mobile telecommunications service that is a prepaid telecommunications service, the location associated with the mobile telephone number.

(4) A sale of a private communications service is sourced as follows:

(A) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located.

(B) Service where all customer termination points are located entirely within one (1) jurisdiction or level of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located.

(C) Service for segments of a channel between two (2) customer channel termination points located in different jurisdictions and which segments of channel are separately charged is sourced fifty percent (50%) in each level of jurisdiction in which the customer channel termination points are located.

(D) Service for segments of a channel located in more than one (1) jurisdiction or level of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in such jurisdiction by the total number of customer channel termination points.

SECTION 15. IC 6-2.5-13-1, AS AMENDED BY P.L.153-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 1. (a) As used in this section, the terms "receive" and "receipt" mean:

- (1) taking possession of tangible personal property;
- (2) making first use of services; or
- (3) taking possession or making first use of digital goods; whichever comes first. The terms "receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

(b) This section:

- (1) applies regardless of the characterization of a product as tangible personal property, a digital good, or a service;
- (2) applies only to the determination of a seller's obligation to pay or collect and remit a sales or use tax with respect to the seller's retail sale of a product; and

(3) does not affect the obligation of a purchaser or lessee to remit tax on the use of the product to the taxing jurisdictions of that use.

(c) This section does not apply to sales or use taxes levied on the following:

(1) The retail sale or transfer of watercraft, modular homes, manufactured homes, or mobile homes. These items must be sourced according to the requirements of this article.

(2) The retail sale, excluding lease or rental, of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in subsection (g). The retail sale of these items shall be sourced according to the requirements of this article, and the lease or rental of these items must be sourced according to subsection (f).

(3) Telecommunications services, ~~as set forth in IC 6-2.5-12;~~ ancillary services, and Internet access service shall be sourced in accordance with IC 6-2.5-12.

(d) The retail sale, excluding lease or rental, of a product shall be sourced as follows:

(1) When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.

(2) When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser (or the purchaser's donee, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery to the purchaser (or donee), known to the seller.

(3) When subdivisions (1) and (2) do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

(4) When subdivisions (1), (2), and (3) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

(5) When none of the previous rules of subdivision (1), (2), (3), or (4) apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location will be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided (disregarding for these purposes any location that merely provided the digital transfer of the product sold).

(e) The lease or rental of tangible personal property, other than property identified in subsection (f) or (g), shall be sourced as follows:

(1) For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subsection (d). Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

(2) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection

(d).

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or an accelerated basis, or on the acquisition of property for lease.

(f) The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in subsection (g), shall be sourced as follows:

(1) For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations.

(2) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (d).

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

(g) The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of subsection (d), notwithstanding the exclusion of lease or rental in subsection (d). As used in this subsection, "transportation equipment" means any of the following:

(1) Locomotives and railcars that are used for the carriage of persons or property in interstate commerce.

(2) Trucks and truck-tractors with a gross vehicle weight rating (GVWR) of ten thousand one (10,001) pounds or greater, trailers, semitrailers, or passenger buses that are:

(A) registered through the International Registration Plan; and

(B) operated under authority of a carrier authorized and certificated by the U.S. Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

(3) Aircraft that are operated by air carriers authorized and certificated by the U.S. Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce.

(4) Containers designed for use on and component parts attached or secured on the items set forth in subdivisions (1) through (3).

(h) This subsection applies to retail sales of floral products that occur before January 1, 2008. Notwithstanding subsection (d), a retail sale of floral products in which a florist or floral business:

(1) takes a floral order from a purchaser; and

(2) transmits the floral order by telegraph, telephone, or other means of communication to another florist or floral business for delivery;

is sourced to the location of the florist or floral business that originally takes the floral order from the purchaser.

SECTION 16. IC 6-2.5-13-2 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 17. [EFFECTIVE JULY 1, 2007] (a) As used in this SECTION, "associate member" has the meaning set forth in bylaw 13(c) of the bylaws of the Multistate Tax Commission, as amended through October 17, 2002.

(b) As used in this SECTION, "biennium" means a period consisting of two (2) consecutive state fiscal years beginning on July 1 of an odd-numbered year.

(c) As used in this SECTION, "department" refers to the department of state revenue established by IC 6-8.1-2-1.

(d) **The governor and the commissioner of the department shall take the steps necessary for Indiana to become an associate member of the Multistate Tax Commission (444 North Capital Street, NW, Suite 425, Washington, DC 20001).**

(e) **For a biennium beginning after January 1, 2009, the department shall make a separate request for the cost of membership in the Multistate Tax Commission as part of the department's biennial budget request.**

SECTION 18. **An emergency is declared for this act.**

(Reference is to ESB 502 as reprinted March 16, 2007.)

KENLEY	KUZMAN
MRVAN	ESPICH
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 191-1; filed April 27, 2007, at 11:06 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 191 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-23-6.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. The board shall adopt rules under IC 4-22-2 for the following:

- (1) Standards for continuing education and training for county coroners, **including education and training requirements set forth in IC 36-2-14.**
- (2) Mandatory training and continuing education requirements for deputy coroners, **including education and training requirements set forth in IC 36-2-14.**
- (3) Minimum requirements for continuing education instructors approved by the board.
- (4) The necessary administration of this chapter.

SECTION 2. IC 4-23-6.5-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10. The board shall consult with the Indiana law enforcement academy under IC 36-2-14-22.2 concerning criminal investigations in the creation of:**

- (1) **the training course for coroners and deputy coroners under IC 36-2-14-22.2(a); and**
- (2) **the annual training course for coroners and deputy coroners under IC 36-2-14-22.2(b).**

SECTION 5. IC 36-2-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) Whenever the coroner is notified that a person in the county:

- (1) has died from violence;
- (2) has died by casualty;
- (3) has died when apparently in good health;
- (4) has died in an apparently suspicious, unusual, or unnatural manner; or
- (5) has been found dead;

~~he~~ **the coroner** shall, before the scene of the death is disturbed, notify a law enforcement agency having jurisdiction in that area. The agency shall assist the coroner in conducting an investigation of how the person died and a medical investigation of the cause of death.

(b) The coroner shall file with the person in charge of interment a coroner's certificate of death within seventy-two (72) hours after being notified of the death. If the cause of death is not

established with reasonable certainty within seventy-two (72) hours, the coroner shall file with the person in charge of interment a coroner's certificate of death, with the cause of death designated as "deferred pending further action". As soon as ~~he~~ **the coroner** determines the cause of death, the coroner shall file a supplemental report indicating ~~his~~ **the** exact findings with the local health officer having jurisdiction, who shall make it part of ~~his~~ **the health officer's** official records.

(c) If this section applies, the body and the scene of death may not be disturbed until:

- (1) the coroner has photographed them in the manner that most fully discloses how the person died; **and**
- (2) **law enforcement and the coroner have finished their initial assessment of the scene of death.**

However, a coroner or law enforcement officer may order a body to be moved before photographs are taken if the position or location of the body unduly interferes with activities carried on where the body is found, but the body may not be moved from the immediate area and must be moved without substantially destroying or altering the evidence present.

(d) When acting under this section, if the coroner considers it necessary to have an autopsy performed, is required to perform an autopsy under subsection (f), or is requested by the prosecuting attorney of the county to perform an autopsy, the coroner shall employ a physician:

- (1) certified by the American Board of Pathology; or
- (2) holding an unlimited license to practice medicine in Indiana and acting under the direction of a physician certified by the American Board of Pathology;

to perform the autopsy. The physician performing the autopsy shall be paid a fee of at least fifty dollars (\$50) from the county treasury. A coroner may employ the services of the medical examiner system, provided for in IC 4-23-6-6, when an autopsy is required, as long as this subsection is met.

(e) If:

- (1) at the request of:
 - (A) the decedent's spouse;
 - (B) a child of the decedent, if the decedent does not have a spouse;
 - (C) a parent of the decedent, if the decedent does not have a spouse or children;
 - (D) a brother or sister of the decedent, if the decedent does not have a spouse, children, or parents; or
 - (E) a grandparent of the decedent, if the decedent does not have a spouse, children, parents, brothers, or sisters;
- (2) in any death where two (2) or more witnesses who corroborate the circumstances surrounding death are present; and
- (3) two (2) physicians who are licensed to practice medicine in the state and who have made separate examinations of the decedent certify the same cause of death in an affidavit within twenty-four (24) hours after death;

an autopsy need not be performed. The affidavits shall be filed with the circuit court clerk.

(f) A county coroner may not certify the cause of death in the case of the sudden and unexpected death of a child who is at least one (1) week old and not more than three (3) years old unless an autopsy is performed at county expense. However, a coroner may certify the cause of death of a child described in this subsection without the performance of an autopsy if subsection (e) applies to the death of the child.

SECTION 6. IC 36-2-14-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6.5. (a) As used in this section, "DNA analysis" means an identification process in which the unique genetic code of an individual that is carried by the individual's deoxyribonucleic acid (DNA) is compared to genetic codes carried in DNA found in bodily substance**

samples obtained by a law enforcement agency in the exercise of the law enforcement agency's investigative function.

(b) As used in this section, "immediate family member" means, with respect to a particular dead person, an individual who is at least eighteen (18) years of age and who is one (1) of the following:

- (1) The dead person's spouse.
- (2) The dead person's child.
- (3) The dead person's parent.
- (4) The dead person's grandparent.
- (5) The dead person's sibling.

(c) The coroner shall make a positive identification of a dead person unless extraordinary circumstances described in subsection (d) exist. In making a positive identification, the coroner shall determine the identity of a dead person by one (1) of the following methods:

- (1) Fingerprint identification.
- (2) DNA analysis.
- (3) Dental record analysis.
- (4) Positive identification by at least one (1) of the dead person's immediate family members if the dead person's body is in a physical condition that would allow for the dead person to be reasonably recognized.

(d) For the purposes of subsection (c), extraordinary circumstances exist if, after a thorough investigation, the coroner determines that identification of the dead person is not possible under any of the four (4) methods described in subsection (c).

SECTION 7. IC 36-2-14-18, AS AMENDED BY P.L.141-2006, SECTION 113, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) Notwithstanding IC 5-14-3-4(b)(1), when a coroner investigates a death, the office of the coroner is required to make available for public inspection and copying the following:

- (1) The name, age, address, sex, and race of the deceased.
- (2) The address where the dead body was found, or if there is no address the location where the dead body was found and, if different, the address where the death occurred, or if there is no address the location where the death occurred.
- (3) The name of the agency to which the death was reported and the name of the person reporting the death.
- (4) The name of any public official or governmental employee present at the scene of the death and the name of the person certifying or pronouncing the death.
- (5) Information regarding an autopsy (requested or performed) limited to the date, the person who performed the autopsy, where the autopsy was performed, and a conclusion as to:
 - (A) the probable cause of death;
 - (B) the probable manner of death; and
 - (C) the probable mechanism of death.
- (6) The location to which the body was removed, the person determining the location to which the body was removed, and the authority under which the decision to remove the body was made.
- (7) The records required to be filed by a coroner under section 6 of this chapter and the verdict and the written report required under section 10 of this chapter.

(b) A county coroner or a coroner's deputy who receives an investigatory record from a law enforcement agency shall treat the investigatory record with the same confidentiality as the law enforcement agency would treat the investigatory record.

(c) Notwithstanding any other provision of this section, a coroner shall make available a full copy of an autopsy report, other than a photograph, video recording, or audio recording of the autopsy, upon the written request of the next of kin of the decedent or of an insurance company investigating a claim arising from the death of the individual upon whom the autopsy was performed. The insurance company is prohibited from

publicly disclosing any information contained in the report beyond that information that may otherwise be disclosed by a coroner under this section. This prohibition does not apply to information disclosed in communications in conjunction with the investigation, settlement, or payment of the claim.

(d) Notwithstanding any other provision of this section, a coroner shall make available a full copy of an autopsy report, other than a photograph, video recording, or audio recording of the autopsy, upon the written request of:

- (1) the director of the division of disability and rehabilitative services established by IC 12-9-1-1;
- (2) the director of the division of mental health and addiction established by IC 12-21-1-1; or
- (3) the director of the division of aging established by IC 12-9.1-1-1;

in connection with a division's review of the circumstances surrounding the death of an individual who received services from a division or through a division at the time of the individual's death.

(e) Notwithstanding any other provision of this section, a coroner shall make available, upon written request, a full copy of an autopsy report, including a photograph, a video recording, or an audio recording of the autopsy, to:

- (1) the department of child services established by IC 31-25-1-1, including an office of the department located in the county where the death occurred;
- (2) the statewide child fatality review committee established by IC 31-33-25-6; or
- (3) a county child fatality review team or regional child fatality review team established under IC 31-33-24-6 by the county or for the county where the death occurred;

for purposes of the entities described in subdivisions (1) through (3) conducting a review or an investigation of the circumstances surrounding the death of a child (as defined in IC 31-9-2-13(d)(1)) and making a determination whether the death of the child was a result of abuse, abandonment, or neglect.

(f) Except as provided in subsection (g), the information required to be available under subsection (a) must be completed not later than fourteen (14) days after the completion of:

- (1) the autopsy report; or
- (2) if applicable, any other report, including a toxicology report, requested by the coroner as part of the coroner's investigation;

whichever is completed last.

(g) The prosecuting attorney may petition a circuit or superior court for an order prohibiting the coroner from publicly disclosing the information required in subsection (a). The prosecuting attorney shall serve a copy of the petition on the coroner.

(h) Upon receipt of a copy of the petition described in subsection (g), the coroner shall keep the information confidential until the court rules on the petition.

(i) The court shall grant a petition filed under subsection (g) if the prosecuting attorney proves by a preponderance of the evidence that public access or dissemination of the information specified in subsection (a) would create a significant risk of harm to the criminal investigation of the death. The court shall state in the order the reasons for granting or denying the petition. An order issued under this subsection must use the least restrictive means and duration possible when restricting access to the information. Information to which access is restricted under this subsection is confidential.

(j) Any person may petition the court to modify or terminate an order issued under subsection (i). The petition for modification or termination must allege facts demonstrating that:

- (1) the public interest will be served by allowing access;

and

(2) access to the information specified in subsection (a) would not create a significant risk to the criminal investigation of the death.

The person petitioning the court for modification or termination shall serve a copy of the petition on the prosecuting attorney and the coroner.

(k) Upon receipt of a petition for modification or termination filed under subsection (j), the court may:

- (1) summarily grant, modify, or dismiss the petition; or
- (2) set the matter for hearing.

If the court sets the matter for hearing, upon the motion of any party or upon the court's own motion, the court may close the hearing to the public.

(l) If the person filing the petition for modification or termination proves by a preponderance of the evidence that:

- (1) the public interest will be served by allowing access; and
- (2) access to the information specified in subsection (a) would not create a significant risk to the criminal investigation of the death;

the court shall modify or terminate its order restricting access to the information. In ruling on a request under this subsection, the court shall state the court's reasons for granting or denying the request.

SECTION 8. IC 36-2-14-22.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22.2. (a) The coroners training board established by IC 4-23-6.5-3, in consultation with the Indiana law enforcement academy, shall create and offer a training course for coroners and deputy coroners. The training course must include:

- (1) at least forty (40) hours of instruction; and
- (2) instruction regarding:
 - (A) death investigation;
 - (B) crime scenes; and
 - (C) preservation of evidence at a crime scene for police and crime lab technicians.

(b) The coroners training board, in consultation with the Indiana law enforcement academy shall create and offer an annual training course for coroners and deputy coroners. The annual training course must:

- (1) include at least eight (8) hours of instruction; and
- (2) cover recent developments in:
 - (A) death investigation;
 - (B) crime scenes; and
 - (C) preservation of evidence at a crime scene for police and crime lab technicians.

(c) In creating the courses under subsections (a) and (b), the coroners training board shall consult with a pathologist certified by the American Board of Pathology regarding medical issues that are a part of the training courses.

(d) All training in the courses offered under subsections (a) and (b) that involves medical issues must be approved by a pathologist certified by the American Board of Pathology.

(e) All training in the courses offered under subsections (a) and (b) that involves crime scenes and evidence preservation must be approved by a law enforcement officer.

(f) The coroners training board shall issue a coroner or deputy coroner a certificate upon successful completion of the courses described in subsections (a) and (b).

SECTION 9. IC 36-2-14-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) Each coroner shall successfully complete the training course offered under section 22.2(a) of this chapter within six (6) months after taking office.

(b) Each deputy coroner shall successfully complete the training course offered under section 22.2(a) of this chapter within one (1) year after beginning employment with a

coroner's office.

(c) Each coroner and each deputy coroner shall successfully complete the annual training course offered under section 22.2(b) of this chapter each year after the year in which the coroner or deputy coroner received the training required by section 22.2(a) of this chapter.

(d) After a coroner or deputy coroner has:

- (1) successfully completed the training course as required under subsection (a) or (b); and
- (2) successfully completed the annual training course as required under subsection (c);

the coroner or deputy coroner shall present a certificate or other evidence to the county executive, or in the case of a county that contains a consolidated city, the city-county council, that the coroner or deputy coroner has successfully completed the training required under subsection (a), (b), or (c).

(e) If a coroner or deputy coroner does not present a certificate or other evidence to the county executive, or in the case of a county that contains a consolidated city, the city-county council, that the coroner or deputy coroner has successfully completed the training required under subsection (a), (b), or (c), the county executive or city-county council shall order the auditor to withhold the paycheck of the coroner or deputy coroner until the coroner or deputy coroner satisfies the respective training requirements under subsections (a), (b), and (c), unless the county executive or city-county council adopts a resolution finding that:

- (1) the failure of the coroner or deputy coroner to complete the respective training requirements under subsections (a), (b), and (c) is the result of unusual circumstances;
- (2) the coroner or deputy coroner is making reasonable progress, under the circumstances, toward completing the respective training requirements under subsections (a), (b), and (c); and
- (3) in light of the unusual circumstances described in subdivision (1), withholding the paycheck of the coroner or deputy coroner would be unjust.

(f) If the county executive or city-county council orders an auditor to withhold a paycheck under subsection (e) and a coroner or deputy coroner later presents a certificate or other evidence to the county executive or city-county council that the coroner or deputy coroner has successfully completed training required under subsection (a), (b), or (c), the county executive or city-county council shall order the auditor to release all of the coroner's or deputy coroner's paychecks that were withheld from the coroner or deputy coroner.

SECTION 10. IC 36-2-14-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24. (a) Except as provided in subsection (b), if a coroner does not release a written report required under section 10 of this chapter or a full copy of an autopsy report required under section 18 of this chapter as required by law, the county executive, or in the case of a county containing a consolidated city, the city-county council, shall order the auditor to withhold the paycheck of the coroner until the coroner properly releases the written report or full autopsy report, unless the county executive or city-county council adopts a resolution finding that:

- (1) the failure of the coroner or deputy coroner to release the written report or full autopsy report is the result of unusual circumstances;
- (2) the coroner or deputy coroner is making reasonable progress, under the circumstances, toward completing and releasing the written report or full autopsy report; and
- (3) in light of the unusual circumstances described in

subdivision (1), withholding the paycheck of the coroner or deputy coroner would be unjust.

(b) A county auditor may not withhold the paycheck of a coroner if a coroner is legally prohibited from releasing a written report or from releasing a full autopsy report. However, a coroner is required to release a written report or full autopsy report as soon as possible after the legal prohibition on releasing the written report or full autopsy report ceases to exist.

(c) If the county executive or city-county council orders an auditor to withhold a paycheck under subsection (a) and a coroner properly releases the written report or full autopsy report, the county executive or city-county council shall order the auditor to release all of the coroner's paychecks that were withheld from the coroner.

(Reference is to ESB 191 as reprinted April 6, 2007.)

MILLER	TINCHER
SIPES	BUELL
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT ESB 44-1; filed April 27, 2007, at 11:07 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 44 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 16-41-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided in IC 16-41-10-2.5 and subsection (b), a person may not perform a screening or confirmatory test for the antibody or antigen to HIV without the **oral or written** consent of the individual to be tested or a representative as authorized under IC 16-36-1. A physician ordering the test or the physician's authorized representative shall document whether or not the individual has consented. The test for the antibody or antigen to HIV may not be performed on a woman under section 5 or 6 of this chapter if the woman refuses under section 7 of this chapter to consent to the test.

(b) The test for the antibody or antigen to HIV may be performed if one (1) of the following conditions exists:

- (1) If ordered by a physician who has obtained a health care consent under IC 16-36-1 or an implied consent under emergency circumstances and the test is medically necessary to diagnose or treat the patient's condition.
- (2) Under a court order based on clear and convincing evidence of a serious and present health threat to others posed by an individual. A hearing held under this subsection shall be held in camera at the request of the individual.
- (3) If the test is done on blood collected or tested anonymously as part of an epidemiologic survey under IC 16-41-2-3 or IC 16-41-17-10(a)(5).
- (4) The test is ordered under section 4 of this chapter.
- (5) The test is required or authorized under IC 11-10-3-2.5.

(c) A court may order a person to undergo testing for HIV under IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(16).

SECTION 2. IC 31-37-19-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by

an adult, would be:

(1) ~~a sex crime listed in IC 35-38-1-7.1(c)~~ **an offense relating to a criminal sexual act (as defined in IC 35-41-1-19.3)** and the crime offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); ~~as described in IC 35-38-1-7.1(b)(8); or~~

(2) an offense ~~related~~ **relating** to controlled substances ~~listed in IC 35-38-1-7.1(f) (as defined in IC 35-41-1-19.4)~~ if the offense involved:

(A) the delivery by a person to another person; or

(B) the use by a person on another person;

of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact.

(b) The juvenile court shall, in addition to any other order or decree the court makes under this chapter, order the child to undergo a screening test for the human immunodeficiency virus (HIV).

(c) If the screening test indicates the presence of antibodies to HIV, the court shall order the child to undergo a confirmatory test.

(d) If the confirmatory test confirms the presence of the HIV antibodies, the court shall report the results to the state department of health.

(e) The state department of health shall do the following:

(1) Notify **potentially affected** victims of the ~~crimes listed in IC 35-38-1-7.1(c) and IC 35-38-1-7.1(f)~~ **offense relating to a criminal sexual act (as defined in IC 35-41-1-19.3) or offense relating to controlled substances (as defined in IC 35-41-1-19.4)** of the HIV screening results.

(2) Provide counseling regarding HIV and a referral for appropriate health care to the victims.

SECTION 3. IC 31-37-19-17.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.4. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be ~~a sex crime listed in IC 35-38-1-7.1(c); an offense relating to a criminal sexual act (as defined in IC 35-41-1-19.3).~~

(b) The juvenile court may, in addition to any other order or decree the court makes under this chapter, order:

(1) the child; and

(2) the child's parent or guardian;

to receive psychological counseling as directed by the court.

SECTION 4. IC 35-38-1-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.5. A probation officer shall obtain confidential information from the state department of health under IC 16-41-8-1 to determine whether a convicted person was a carrier of the human immunodeficiency virus (HIV) when the crime was committed if the person is:

(1) convicted of ~~a sex crime listed in section 7.1(c) of this chapter~~ **an offense relating to a criminal sexual act** and the crime offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); ~~as described in section 7.1(b)(8) of this chapter; or~~

(2) convicted of an offense relating to controlled substances ~~listed in section 7.1(f) of this chapter~~ and the offense involved: ~~the conditions described in section 7.1(b)(9)(A) of this chapter.~~

(A) **the delivery by any person to another person; or**

(B) **the use by any person on another person;**

of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of

HIV by involving percutaneous contact.

SECTION 5. IC 35-38-1-10.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.5. (a) The court:

(1) shall order that a person undergo a screening test for the human immunodeficiency virus (HIV) if the person is:

(A) convicted of ~~a sex crime listed in section 7-1(e) of this chapter~~ **an offense relating to a criminal sexual act** and the ~~crime offense~~ created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); ~~as described in section 7-1(b)(8) of this chapter;~~ or

(B) convicted of an offense ~~related~~ **relating** to controlled substances ~~listed in section 7-1(f) of this chapter~~ and the offense involved: ~~the conditions described in section 7-1(b)(9)(A) of this chapter:~~

(i) **the delivery by any person to another person;**
or

(ii) **the use by any person on another person; of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact;** and

(2) may order that a person undergo a screening test for the human immunodeficiency virus (HIV) if the court has made a finding of probable cause after a hearing under section 10.7 of this chapter.

(b) If the screening test required by this section indicates the presence of antibodies to HIV, the court shall order the person to undergo a confirmatory test.

(c) If the confirmatory test confirms the presence of the HIV antibodies, the court shall report the results to the state department of health and require a probation officer to conduct a presentence investigation to:

(1) obtain the medical record of the convicted person from the state department of health under IC 16-41-8-1(a)(3); and

(2) determine whether the convicted person had received risk counseling that included information on the behavior that facilitates the transmission of HIV.

(d) A person who, in good faith:

(1) makes a report required to be made under this section; or
(2) testifies in a judicial proceeding on matters arising from the report;

is immune from both civil and criminal liability due to the offering of that report or testimony.

(e) The privileged communication between a husband and wife or between a health care provider and the health care provider's patient is not a ground for excluding information required under this section.

(f) A mental health service provider (as defined in IC 34-6-2-80) who discloses information that must be disclosed to comply with this section is immune from civil and criminal liability under Indiana statutes that protect patient privacy and confidentiality.

SECTION 6. IC 35-38-1-10.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.6. (a) The state department of health shall notify victims of ~~the crimes listed in section 7-1(e) and 7-1(f) of this chapter~~ **an offense relating to a criminal sexual act or an offense relating to controlled substances** if tests conducted under section 10.5 or section 10.7 of this chapter confirm that the person tested had antibodies for the human immunodeficiency virus (HIV).

(b) The state department of health shall provide counseling to persons notified under this section.

SECTION 7. IC 35-38-1-10.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.7. (a)

Upon:

(1) written request made to a prosecuting attorney by an alleged victim of ~~a sex offense listed in section 7-1(e) of this chapter;~~ **an offense relating to a criminal sexual act;** and

(2) after a hearing held under this section, a court entering a finding that there is probable cause to believe the alleged victim is a victim of ~~a sex offense listed in section 7-1(e) of this chapter~~ **an offense relating to a criminal sexual act** that was committed by the defendant;

the court may order an individual named as defendant in the prosecution of the offense to undergo a screening test for human immunodeficiency virus (HIV).

(b) Before issuing an order for testing under subsection (a), the court shall conduct a hearing at which both the alleged victim and the defendant have the right to be present. Both the alleged victim and the defendant must be notified of:

(1) the date, time, and location of the hearing; and

(2) their right to be present at the hearing.

(c) During the hearing, only affidavits, counteraffidavits, and medical records that relate to the material facts of the case used to support or rebut a finding of probable cause to believe the alleged victim was exposed to human immunodeficiency virus (HIV) as a result of the alleged ~~sex offense~~ **relating to a criminal sexual act** may be admissible.

(d) The written request of the alleged victim made under subsection (a) must be filed by the prosecuting attorney with the court and sealed by a court.

(e) The requirements of section 10.5 of this chapter apply to testing ordered by a court under this section.

(f) If the defendant has not been convicted, the results of a test conducted under this section shall be kept confidential. The results may not be made available to any person or public or private agency other than the following:

(1) The defendant and the defendant's counsel.

(2) The prosecuting attorney.

(3) The department of correction.

(4) The victim and the victim's counsel.

(g) A victim may disclose the results of a test to an individual or organization to protect the health and safety of or to seek compensation for:

(1) the victim;

(2) the victim's sexual partner; or

(3) the victim's family.

(h) A person that knowingly or intentionally:

(1) receives notification or disclosure of the results of a test under this section; and

(2) discloses the results of the test in violation of this section;

commits a Class B misdemeanor.

SECTION 8. IC 35-38-2-2.3, AS AMENDED BY P.L.60-2006, SECTION 9, AND AS AMENDED BY P.L.140-2006, SECTION 24, AND P.L.173-2006, SECTION 24, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.3. (a) As a condition of probation, the court may require a person to do a combination of the following:

(1) Work faithfully at suitable employment or faithfully pursue a course of study or vocational training that will equip the person for suitable employment.

(2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.

(4) Support the person's dependents and meet other family responsibilities.

(5) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim.

When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.

(6) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.

(7) Pay a fine authorized by IC 35-50.

(8) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's probation officer.

(9) Report to a probation officer at reasonable times as directed by the court or the probation officer.

(10) Permit the person's probation officer to visit the person at reasonable times at the person's home or elsewhere.

(11) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.

(12) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.

(13) Perform uncompensated work that benefits the community.

(14) Satisfy other conditions reasonably related to the person's rehabilitation.

(15) Undergo home detention under IC 35-38-2.5.

(16) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:

(A) the person had been convicted of ~~a sex crime listed in IC 35-38-1-7.1(c)~~ **an offense relating to a criminal sexual act** and the ~~crime~~ offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); ~~as described in IC 35-38-1-7.1(b)(8); or~~

(B) the person had been convicted of an offense ~~related~~ **relating** to a controlled substance ~~listed in IC 35-38-1-7.1(f)~~ and the offense involved: ~~the conditions described in IC 35-38-1-7.1(b)(9)(A);~~

(i) the delivery by any person to another person; or

(ii) the use by any person on another person; of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact.

(17) Refrain from any direct or indirect contact with an individual.

(18) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in IC 10-13-5-4).

(19) Periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.

(20) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the

penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

(A) may not exceed an amount the person can or will be able to pay;

(B) does not harm the person's ability to reasonably be self supporting or to reasonably support any dependent of the person; and

(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is required to pay under this section.

(21) Refrain from owning, harboring, or training an animal.

(22) *Participate in a reentry court program.*

(b) When a person is placed on probation, the person shall be given a written statement specifying:

(1) the conditions of probation; and

(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

(1) the term of imprisonment;

(2) the days or parts of days during which a person is to be confined; and

(3) the conditions.

(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.

(f) When a court imposes a condition of probation described in subsection (a)(17):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

(g) *As a condition of probation, a court shall require a person:*

(1) convicted of an offense described in IC 10-13-6-10;

(2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and

(3) whose sentence does not involve a commitment to the department of correction;

to provide a DNA sample as a condition of probation.

SECTION 9. IC 35-41-1-19.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 19.3. "Offense relating to a criminal sexual act" means the following:**

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Child molesting (IC 35-42-4-3).

(4) Child seduction (IC 35-42-4-7).

(5) Prostitution (IC 35-45-4-2).

(6) Patronizing a prostitute (IC 35-45-4-3).

(7) Incest (IC 35-46-1-3).

(8) Sexual misconduct with a minor under IC 35-42-4-9(a).

SECTION 10. IC 35-41-1-19.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 19.4. "Offense relating to controlled substances" means the following:**

- (1) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).**
- (2) Dealing in methamphetamine (IC 35-48-4-1.1).**
- (3) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).**
- (4) Dealing in a schedule IV controlled substance (IC 35-48-4-3).**
- (5) Dealing in a schedule V controlled substance (IC 35-48-4-4).**
- (6) Possession of cocaine or a narcotic drug (IC 35-48-4-6).**
- (7) Possession of methamphetamine (IC 35-48-4-6.1).**
- (8) Possession of a controlled substance (IC 35-48-4-7).**
- (9) Possession of paraphernalia (IC 35-48-4-8.3).**
- (10) Dealing in paraphernalia (IC 35-48-4-8.5).**
- (11) Offenses relating to registration (IC 35-48-4-14).**

SECTION 11. **An emergency is declared for this act.**

(Reference is to ESB 44 as reprinted April 11, 2007.)

BRAY	L. LAWSON
LANANE	FOLEY
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 463-1; filed April 27, 2007, at 11:07 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 463 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Page 11, delete lines 37 through 42.

Page 12, delete lines 1 through 22.

Renumber all SECTIONS consecutively.

(Reference is to ESB 463 as reprinted April 10, 2007.)

HEINOLD	TINCHER
HUME	RUPPEL
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1437-1; filed April 27, 2007, at 11:56 a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1437 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and corrections.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-2-6-3, AS AMENDED BY P.L.173-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. The institute is established to do the following:

- (1) Evaluate state and local programs associated with:
 - (A) the prevention, detection, and solution of criminal offenses;
 - (B) law enforcement; and
 - (C) the administration of criminal and juvenile justice.
- (2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.
- (3) Stimulate criminal and juvenile justice research.
- (4) Develop new methods for the prevention and reduction of crime.
- (5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.
- (6) Administer victim and witness assistance funds.
- (7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.
- (8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.
- (9) Serve as the criminal justice statistical analysis center for this state.
- (10) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex offender registration under IC 11-8-8.
- (11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.
- (12) Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.
- (13) Develop and manage the gang crime witness protection program established by section 21 of this chapter.**
- (14) Identify grants and other funds that can be used to fund the gang crime witness protection program.**

SECTION 2. IC 5-2-6-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 21. (a) The gang crime witness protection program is established.**

(b) The gang crime witness protection program shall be developed and maintained to assist witnesses of gang crimes with:

- (1) temporary living costs;**
- (2) moving expenses;**
- (3) rent;**
- (4) security deposits; and**
- (5) other appropriate expenses of relocation or transitional housing.**

(c) The institute shall develop and maintain procedures to award funds for the purposes described in subsection (b) to an individual who witnesses a gang crime.

(d) The institute shall adopt rules under IC 4-22-2 to implement this section.

(e) The director of the Indiana criminal justice institute may delay the implementation of this section until the earlier of the following:

- (1) A date set by the director.**
- (2) The date funding becomes available by a grant through the criminal justice institute or by an appropriation from the general assembly.**

If the director of the criminal justice institute delays implementation of this section, the director shall notify each prosecuting attorney of the director's action.

SECTION 3. IC 5-2-6-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 22. (a) The gang crime**

witness protection fund is established. The institute shall administer the fund.

(b) The fund consists of:

- (1) money identified and obtained by the institute under subsection (d);
- (2) appropriations made to the fund by the general assembly; and
- (3) grants, gifts, and donations to the fund.

(c) The institute shall use money in the fund for costs described in section 21(b) of this chapter.

(d) The institute shall identify and obtain grants and other funds that can be used to fund the gang crime witness protection program under section 21 of this chapter.

(e) Money in the gang crime witness protection fund at the end of a state fiscal year does not revert to the state general fund."

Page 6, after line 19, begin a new paragraph and insert:

"SECTION 9. IC 35-45-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter, "criminal gang" means a group with at least ~~five (5)~~ **three (3)** members that specifically:

(1) either:

- (A) promotes, sponsors, or assists in; or
- (B) participates in; or

(2) requires as a condition of membership or continued membership;

the commission of a felony or an act that would be a felony if committed by an adult or the offense of battery (IC 35-42-2-1).

SECTION 10. IC 35-45-9-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5. (a) Except as provided in subsection (b), an individual who knowingly or intentionally solicits, recruits, entices, or intimidates another individual to join a criminal gang commits criminal gang recruitment, a Class D felony.**

(b) The offense under subsection (a) is a Class C felony if:

- (1) the solicitation, recruitment, enticement, or intimidation occurs within one thousand (1,000) feet of school property; or
- (2) the individual who is solicited, recruited, enticed, or intimidated is less than eighteen (18) years of age.

SECTION 11. IC 35-45-9-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6. In addition to any sentence or fine imposed on a criminal gang member for committing a felony or misdemeanor, the court shall order a criminal gang member convicted of a felony or misdemeanor to make restitution to the victim of the crime under IC 35-50-5-3.**

SECTION 12. IC 35-50-2-1.4, AS ADDED BY P.L.109-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.4. For purposes of section 15 of this chapter, "criminal gang" means a group with at least ~~five (5)~~ **three (3)** members that specifically:

(1) either:

- (A) promotes, sponsors, or assists in; or
- (B) participates in; or

(2) requires as a condition of membership or continued membership;

the commission of a felony or an act that would be a felony if committed by an adult or the offense of battery (IC 35-42-2-1)."

Renumber all SECTIONS consecutively

(Reference is to EHB 1437 as printed March 30, 2007.)

V. SMITH	BRAY
FOLEY	LANANE
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT

ESB 480-1; filed April 27, 2007, at 1:26 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 480 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-3-1-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 2.5. "Armed forces of the United States" has the meaning set forth in IC 5-9-4-3.**

SECTION 2. IC 6-3-1-2.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 2.7. "National Guard" has the meaning set forth in IC 5-9-4-4.**

SECTION 3. IC 6-3-1-3.5, AS AMENDED BY P.L.184-2006, SECTION 3, AND AS AMENDED BY P.L.162-2006, SECTION 24, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

- (A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;
- (B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and
- (C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

- (A) for taxable years beginning after December 31, 2004, one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code ~~for taxable years beginning after December 31, 1996~~ (as effective January 1, 2004); and

(B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

- (A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is

- imposed by a political subdivision of another state and that is imposed on or measured by income; or
- (B) two thousand dollars (\$2,000).
- (7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.
- (8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.
- (9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).
- (10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.
- (11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.
- (12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.
- (13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.
- (14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.
- (15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.
- (16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.
- (17) Subtract an amount equal to the lesser of:
- (A) for a taxable year:
 - (i) including any part of 2004, the amount determined under subsection (f); and
 - (ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or
 - (B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.
- (18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.
- (19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been

computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(23) Subtract an amount equal to the amount of the taxpayer's qualified military income that was not excluded from the taxpayer's gross income for federal income tax purposes under Section 112 of the Internal Revenue Code.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(9) Add to the extent required by IC 6-3-2-20 the amount

of intangible expenses (as defined in IC 6-3-2-20) and any directly related intangible interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the Internal Revenue Code) for federal income tax purposes.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
- (3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.
- (4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.
- (7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).
- (8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
- (3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.
- (4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section

168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.
- (3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).
- (6) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.
STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP FOUR amount and two thousand five hundred dollars (\$2,500).

SECTION 4. IC 6-3-1-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 34. "Qualified military income" means wages that are paid:**

(1) to a member of:

(A) a reserve component of the armed forces of the United States; or

(B) the National Guard; and

(2) for any of the following applicable periods, or any combination of the following applicable periods, in a calendar year:

(A) The member's full-time service on involuntary orders in:

(i) a reserve component of the armed forces of the United States; or

(ii) the National Guard.

(B) The period during which the member is mobilized and deployed for full-time service in:

(i) a reserve component of the armed forces of the United States; or

(ii) the National Guard.

(C) The period during which the member's National Guard unit is federalized.

SECTION 5. IC 6-3-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 4. (a)** Each taxable year, an individual, or the individual's surviving spouse, is entitled to an adjusted gross income tax deduction for the first ~~two~~ **five** thousand dollars (~~\$2,000~~) (**\$5,000**) of income, including retirement or survivor's benefits, received during the taxable year by the individual, or the individual's surviving spouse, for the individual's service in an active or reserve component of the armed forces of the United States, including the army, navy, air force, coast guard, marine corps, merchant marine, Indiana army national guard, or Indiana air national guard. However, a person who is less than sixty (60) years of age on the last day of the person's taxable year, is not, for that taxable year, entitled to a deduction under this section for retirement or survivor's benefits.

(b) An individual whose qualified military income is subtracted from the individual's federal adjusted gross income under IC 6-3-1-3.5(a)(23) for Indiana individual income tax purposes is not, for that taxable year, entitled to a deduction under this section for the individual's qualified military income.

SECTION 6. IC 10-17-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5. (a)** The position of director of veterans' affairs is established. The governor shall appoint the director for a four (4) year term. However, the term of office of the director terminates when the term of office of the governor terminates or when a successor to the director is appointed and qualified. The director must be:

(1) an honorably discharged veteran who has at least six (6) months active service in the armed forces of the United States; and

(2) a citizen of Indiana and a resident of Indiana for at least five (5) years immediately preceding the director's appointment.

(b) The director is entitled to reimbursement for necessary traveling and other expenses.

(c) The governor may remove the director if the governor considers the director guilty of misconduct, incapability, or neglect of duty.

(d) The governor shall appoint an assistant director of veterans' affairs. The assistant director is entitled to receive

reimbursement for necessary traveling and other expenses. The assistant director has the same qualifications as the director of veterans' affairs and shall assist the director in carrying out this chapter.

SECTION 7. IC 10-17-1-6, AS AMENDED BY P.L.58-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6. (a)** The director of veterans' affairs:

(1) is the executive and administrative head of the Indiana department of veterans' affairs; and

(2) shall direct and supervise the administrative and technical activities of the department;

subject to the general supervision of the commission.

(b) The duties of the director include the following:

(1) To attend all meetings of the commission and to act as secretary and keep minutes of the commission's proceedings.

(2) To appoint, by and with the consent of the commission, under this chapter and notwithstanding IC 4-15-2, the employees of the department necessary to carry out this chapter and to fix the compensation of the employees. Employees of the department must be:

~~(A) honorably discharged veterans who have had at least six (6) months service in the armed forces of the United States and who are citizens of the United States and Indiana; or~~

~~(B) spouses, surviving spouses, parents, or children of an individual described in clause (A).~~

An employee must qualify for the job concerned.

(3) To carry out the program for veterans' affairs as directed by the governor and the commission.

(4) To carry on field direction, inspection, and coordination of county and city service officers as provided in this chapter.

(5) To prepare and conduct service officer training schools with the voluntary aid and assistance of the service staffs of the major veterans' organizations.

(6) To maintain an information bulletin service to county and city service officers for the necessary dissemination of material pertaining to all phases of veterans' rehabilitation and service work.

(7) To perform the duties described in IC 10-17-11 for the Indiana state veterans' cemetery.

(8) To perform the duties described in IC 10-17-12 for the military family relief fund.

(9) To establish a program and set guidelines under which a medal of honor awardee may receive compensation when attending and participating in official ceremonies.

SECTION 8. IC 10-17-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7. The director of veterans' affairs may act as agent of a veteran under (a) A power of attorney authorizing the director to act on behalf of the a veteran in obtaining a benefit or an advantage for a veteran provided under Indiana law must run to an authorized agency or individual recognized by the United States Department of Veterans Affairs.**

(b) A rule contrary to this section is void.

SECTION 9. IC 10-17-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 9. (a)** A county executive:

(1) shall designate and may employ a county service officer; and

(2) may employ service officer assistants; to serve the veterans of the county.

(b) The fiscal body of a city may provide for the employment by the mayor of a city service officer and service officer assistants to serve the veterans of the city.

(c) If the remuneration and expenses of a county or city

service officer are paid from the funds of the county or city employing the service officer, the service officer shall:

- (1) have the same qualifications and be subject to the same rules as ~~other employees~~ **the director, assistant director, and state service officers** of the Indiana department of veterans' affairs; and
- (2) serve under the supervision of the director of veterans' affairs.

A service officer assistant must have the same qualifications as an employee described in section 11(b) of this chapter. A rule contrary to this subsection is void.

(d) County and city fiscal bodies may appropriate funds necessary for the purposes described in this section.

SECTION 10. IC 10-17-1-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 11. (a) The following employees of the Indiana department of veterans' affairs must satisfy the requirements set forth in section 5(a) of this chapter:**

- (1) State service officers.
- (2) Director of the state approving agency.
- (3) Program directors of the state approving agency.
- (4) Director of the Indiana state veterans' cemetery established by IC 10-17-11-4.

(b) An employee of the Indiana department of veterans' affairs not described in subsection (a) must:

- (1) satisfy; or
- (2) be the spouse, surviving spouse, parent, or child of a person who satisfies;

the requirements set forth in section 5(a) of this chapter.

SECTION 11. IC 10-17-12-3, AS ADDED BY P.L.58-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. As used in this chapter, "~~commission~~" **"board"** refers to the **military and veterans' affairs commission benefits board** established by ~~IC 10-17-1-3~~ **IC 10-17-13-4**.

SECTION 12. IC 10-17-12-8, AS ADDED BY P.L.58-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) The military family relief fund is established ~~beginning January 1, 2007~~, to provide assistance with food, housing, utilities, medical services, basic transportation, and other essential family support expenses that have become difficult to afford for families of Indiana residents who are:

- (1) members of:
 - (A) a reserve component of the armed forces; or
 - (B) the national guard; and
- (2) called to active duty after September 11, 2001.

(b) The ~~department board~~ shall expend the money in the fund exclusively to provide grants for assistance as described in subsection (a).

(c) The ~~director board~~ shall administer the fund.

SECTION 13. IC 10-17-12-9, AS ADDED BY P.L.58-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) The fund consists of the following:

- (1) Appropriations made by the general assembly.
- (2) Donations to the fund.
- (3) Interest as provided in subsection (b).
- (4) Money transferred to the fund from other funds.
- (5) Annual supplemental fees collected under IC 9-29-5-38.5.
- (6) Money from any other source authorized or appropriated for the fund.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund or to any other fund.

(d) There is annually appropriated to the ~~department board~~ for the purposes of this chapter all money in the fund not otherwise appropriated to the ~~department board~~ for the purposes of this chapter.

SECTION 14. IC 10-17-12-10, AS ADDED BY P.L.58-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. The ~~commission board~~ may adopt rules under IC 4-22-2 for the provision of grants under this chapter. The rules adopted under this section must address the following:

- (1) Uniform need determination procedures.
- (2) Eligibility criteria.
- (3) Application procedures.
- (4) Selection procedures.
- (5) Coordination with other assistance programs.
- (6) Other areas in which the department determines that rules are necessary to ensure the uniform administration of the grant program under this chapter.

SECTION 15. IC 10-17-12-11, AS ADDED BY P.L.58-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. The director or a member of the ~~commission board~~ may make a request to the general assembly for an appropriation to the fund.

SECTION 16. IC 10-17-13 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 13. Veterans' Affairs Trust Fund

Sec. 1. As used in this chapter, "board" refers to the military and veterans' benefits board established by section 4 of this chapter.

Sec. 2. As used in this chapter, "fund" refers to the veterans' affairs trust fund established by section 3 of this chapter.

Sec. 3. (a) The veterans' affairs trust fund is established to provide assistance to veterans and their families.

(b) The fund consists of the following:

- (1) Appropriations by the general assembly.
- (2) Donations, gifts, grants, and bequests to the fund.
- (3) Interest and dividends on assets of the funds.
- (4) Money transferred to the fund from other funds.
- (5) Money from any other source deposited in the fund.

Sec. 4. The military and veterans' benefits board is established.

Sec. 5. The board consists of the following members:

(1) Seven (7) members appointed by the governor. The governor shall consider the following when making appointments under this subdivision:

(A) Membership in:

- (i) a veterans association established under IC 10-18-6; or
- (ii) a veterans organization listed in IC 10-18-8-1.

(B) Service in the armed forces of the United States (as defined in IC 5-9-4-3) or the national guard (as defined in IC 5-9-4-4).

(C) Experience in education, including higher education, vocational education, or adult education.

(D) Experience in investment banking or finance.

The governor shall designate one (1) member appointed under this subdivision to serve as chairperson of the board.

(2) The director of veterans' affairs appointed under IC 10-17-1-5 or the director's designee.

(3) The adjutant general of the military department of the state appointed under IC 10-16-2-6 or the adjutant general's designee.

(4) Four (4) members of the general assembly appointed as follows:

(A) Two (2) members of the senate, one (1) from each

political party, appointed by the president pro tempore of the senate with advice from the minority leader of the senate.

(B) Two (2) members of the house of representatives, one (1) from each political party, appointed by the speaker of the house of representatives with advice from the minority leader of the house of representatives.

Members appointed under this subdivision are nonvoting, advisory members and must serve on a standing committee of the senate or house of representatives that has subject matter jurisdiction over military and veterans affairs.

Sec. 6. The board shall meet at least quarterly at the call of the chairperson of the board.

Sec. 7. Five (5) voting members of the board constitute a quorum. The affirmative vote of five (5) members of the board is necessary for the board to take action.

Sec. 8. (a) The term of a board member begins on the later of the following:

(1) The day the term of the member whom the individual is appointed to succeed expires.

(2) The day the member is appointed.

(b) The term of a member expires on the later of the following:

(1) The day a successor is appointed.

(2) July 1 of the year following the year in which the member is appointed.

However, a member serves at the pleasure of the appointing authority.

(c) An appointing authority may reappoint a member for a new term.

(d) An appointing authority shall appoint an individual to fill a vacancy on the board.

Sec. 9. (a) Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the board who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the board who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

Sec. 10. (a) The board shall manage and develop the fund and the assets of the fund.

(b) The board shall do the following:

(1) Establish a policy for the investment of the assets of the fund. In establishing a policy under this subdivision, the board shall:

(A) consider the immediate needs of veterans and their families to the extent those needs are not addressed by the military family relief fund established by IC 10-17-12-8; and

(B) have as its long term goal creating a self sustaining fund that is not dependent on legislative

sources of funding.

(2) Acquire money for the fund through the solicitation of private or public donations and other revenue producing activities.

(3) Perform other tasks consistent with prudent management and development of the fund.

Sec. 11. (a) Subject to the investment policy of the board established under section 10 of this chapter, the treasurer of state shall administer the fund and invest the money in the fund.

(b) The expenses of administering the fund and this chapter shall be paid from the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public trust funds are invested. Interest that accrues from these investments shall be deposited in the fund.

Sec. 12. Money in the fund at the end of a state fiscal year does not revert to the state general fund or any other fund.

Sec. 13. Before October 1 of each year, the board shall report in an electronic format under IC 5-14-6 to the general assembly concerning the fund.

Sec. 14. The board shall adopt rules under IC 4-22-2 to do the following:

(1) Establish or designate programs, including existing programs administered by state agencies for the benefit of active duty military personnel, veterans, and their families, to be funded by the fund. The board shall consider the following needs of veterans and their families in establishing programs under this subdivision:

(A) Education.

(B) Economic assistance, including grants and loans.

(C) Health and medical care.

(D) Housing and transportation needs.

(E) Employment and workforce issues.

(F) Any other issue the board determines is appropriate.

(2) Determine eligibility and application procedures for programs described in subdivision (1).

(3) Otherwise implement this chapter.

SECTION 17. IC 20-20-7-3, AS ADDED BY P.L.1-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. As used in this chapter, "eligible veteran" refers to an individual who has the following qualifications:

(1) Served as a member of the armed forces of the United States at any time during at least one (1) of the following periods:

(A) Beginning April 6, 1917, and ending November 11, 1918 (World War I).

(B) Beginning December 7, 1941, and ending December 31, 1946 (World War II).

(C) Beginning June 27, 1950, and ending January 31, 1955 (Korean Conflict).

(D) Beginning August 5, 1964, and ending May 7, 1975 (Vietnam Conflict).

(2) Before the military service described in subdivision (1):

(A) attended a public or nonpublic high school in Indiana; and

(B) was a student in good standing at the high school described in clause (A), to the satisfaction of the department of veterans' affairs.

(3) Did not graduate or receive a diploma because of leaving the high school described in subdivision (2) for the military service described in subdivision (1).

(4) Was honorably discharged from the armed forces of the United States.

SECTION 18. IC 20-28-2-6, AS AMENDED BY SEA 526-2007, SECTION 203, IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) Subject to subsection (c) and in addition to the powers and duties set forth in IC 20-20-22 or this article, the advisory board may adopt rules under IC 4-22-2 to do the following:

- (1) Set standards for teacher licensing and for the administration of a professional licensing and certification process by the department.
- (2) Approve or disapprove teacher preparation programs.
- (3) Set fees to be charged in connection with teacher licensing.
- (4) Suspend, revoke, or reinstate teacher licenses.
- (5) Enter into agreements with other states to acquire reciprocal approval of teacher preparation programs.
- (6) Set standards for teacher licensing concerning new subjects of study.
- (7) Evaluate work experience and military service concerning postsecondary education and experience equivalency.
- (8) Perform any other action that:
 - (A) relates to the improvement of instruction in the public schools through teacher education and professional development through continuing education; and
 - (B) attracts qualified candidates for teacher education from among the high school graduates of Indiana.
- (9) Set standards for endorsement of school psychologists as independent practice school psychologists under IC 20-28-12.

(b) Notwithstanding subsection (a)(1), an individual is entitled to one (1) year of occupational experience for purposes of obtaining an occupational specialist certificate under this article for each year the individual holds a license under IC 25-8-6.

(c) Before publishing notice of the intent to adopt a rule under IC 4-22-2, the advisory board must submit the proposed rule to the state superintendent for approval. If the state superintendent approves the rule, the advisory board may publish notice of the intent to adopt the rule. If the state superintendent does not approve the rule, the advisory board may not publish notice of the intent to adopt the rule.

(d) The advisory board may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to establish procedures to expedite the issuance, renewal, or reinstatement under this article of a license or certificate of a person whose spouse serves on active duty (as defined in IC 25-1-12-2) and is assigned to a duty station in Indiana. Before publishing notice of the intent to adopt a permanent rule under IC 4-22-2, the advisory board must comply with subsection (c).

SECTION 19. IC 21-13-1-5, AS ADDED BY SEA 526-2007, SECTION 254, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. "Fund":

- (1) for purposes of IC 21-13-2, refers to the minority teacher or special education services scholarship fund established by IC 21-13-2-1;
- (2) for purposes of IC 21-13-3, refers to the nursing scholarship fund established by IC 21-13-3-1; ~~and~~
- (3) for purposes of IC 21-13-4, refers to the National Guard tuition supplement program fund established by IC 21-13-4-1; ~~and~~
- (4) for purposes of IC 21-13-5, refers to the National Guard scholarship extension fund established by IC 21-13-5-1.**

SECTION 20. IC 21-13-1-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. "Scholarship extension applicant", for purposes of IC 21-13-5, means a person who:

- (1) is a former member of the Indiana National Guard who was called to active duty at least one (1) time while**

a member of the Indiana National Guard;

(2) was a scholarship applicant when the person was called to active duty;

(3) is a resident of Indiana;

(4) has been accepted to attend a state educational institution as a full-time or part-time student; and

(5) according to commission requirements, has timely filed an application for any federal and state financial assistance available to the person to attend a state educational institution.

SECTION 21. IC 21-13-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 5. National Guard Scholarship Extension Program

Sec. 1. (a) The National Guard scholarship extension fund is established to provide the financial resources necessary to award tuition scholarships to scholarship extension applicants.

(b) The commission shall administer the fund. The expenses of administering the fund shall be paid from money in the fund.

(c) The fund consists of money transferred to the fund from the National Guard scholarship program reserves.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 2. Money in the National Guard scholarship extension fund shall be used to provide annual scholarships to scholarship extension applicants in an amount determined by the commission.

Sec. 3. A scholarship extension applicant shall apply for a tuition scholarship under this chapter not later than one (1) year after the scholarship extension applicant ceases to be a member of the National Guard.

Sec. 4. A scholarship extension applicant is eligible for a tuition scholarship under this chapter for a period not to exceed the period the scholarship extension applicant served on active duty as a member of the National Guard.

Sec. 5. The commission shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 22. IC 21-14-1-2.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.3. For purposes of IC 21-14-9, "active duty" means full-time service in the armed forces of the United States that exceeds thirty (30) days in a calendar year.

SECTION 23. IC 21-14-1-2.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.7. For purposes of IC 21-14-9, "armed forces of the United States" means the following:

- (1) The United States Air Force.**
- (2) The United States Army.**
- (3) The United States Coast Guard.**
- (4) The United States Marine Corps.**
- (5) The United States Navy.**

SECTION 24. IC 21-14-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 9. Resident Tuition for Active Duty Military Personnel

Sec. 1. Notwithstanding any other statute, a person who:

- (1) is a nonresident of Indiana;**
- (2) serves on active duty;**
- (3) is stationed in Indiana; and**
- (4) attends a state educational institution;**

is eligible to pay the resident tuition rate determined by the state educational institution for courses taken by the person while the person continues to satisfy the criteria set forth in subdivisions (2) and (3).

Sec. 2. A dependent of a person described in section 1 of this chapter is eligible to pay the resident tuition rate determined by the state educational institution for courses taken by the dependent for the duration of the dependent's enrollment at the state educational institution.

SECTION 25. IC 25-1-9-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 20. The board may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to establish procedures to expedite the issuance or renewal of a:**

- (1) license;
- (2) certificate;
- (3) registration; or
- (4) permit;

of a person whose spouse serves on active duty (as defined in IC 25-1-12-2) and is assigned to a duty station in Indiana.

SECTION 26. IC 25-1-11-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 21. The board may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to establish procedures to expedite the issuance or renewal of a:**

- (1) license;
- (2) certificate;
- (3) registration; or
- (4) permit;

of a person whose spouse serves on active duty (as defined in IC 25-1-12-2) and is assigned to a duty station in Indiana.

SECTION 27. [EFFECTIVE JULY 1, 2007] **IC 6-3-1-3.5 and IC 6-3-2-4, both as amended by this act, apply to taxable years beginning after December 31, 2007.**

SECTION 28. [EFFECTIVE JULY 1, 2007] **IC 10-17-1-5 and IC 10-17-1-9, both as amended by this act, and IC 10-17-1-11, as added by this act, apply to employees who begin employment with:**

- (1) the Indiana department of veterans' affairs; or
- (2) a county or a city under IC 10-17-1-9, as amended by this act;

as applicable, after June 30, 2007.

SECTION 29. [EFFECTIVE JULY 1, 2007] **(a) Notwithstanding the amendment of IC 10-17-12-10 by this act, rules adopted by the veterans' affairs commission under IC 4-22-2 and IC 10-17-12-10, before its amendment by this act, for the provision of grants under IC 10-17-12 shall remain in effect until the later of:**

- (1) the date on which the military and veterans' benefits board established by IC 10-17-13-4, as added by this act, adopts rules under IC 4-22-2 and IC 10-17-12-10, as amended by this act; or
- (2) July 1, 2008.

(b) This SECTION expires July 1, 2008.

SECTION 30. [EFFECTIVE UPON PASSAGE] **(a) For purposes of IC 21-13-5, as added by this act, "fund" refers to the National Guard scholarship extension fund established by IC 21-13-5-1.**

(b) This SECTION expires July 1, 2007.

SECTION 31. [EFFECTIVE UPON PASSAGE] **(a) On June 30, 2007, the state student assistance commission shall transfer the National Guard scholarship program reserves to the National Guard scholarship extension fund established by IC 21-13-5-1, as added by this act.**

(b) This SECTION expires December 31, 2007.

SECTION 32. **An emergency is declared for this act.**

(Reference is to ESB 480 as reprinted April 10, 2007.)

WYSS	RESKE
ROGERS	McCLAIN
Senate Conferees	House Conferees

The conference committee report was filed and read a first

time.

CONFERENCE COMMITTEE REPORT
ESB 561-1; filed April 27, 2007, at 1:27 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 561 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Page 3, delete lines 6 through 27.

Renumber all SECTIONS consecutively.

(Reference is to ESB 561 as reprinted April 10, 2007.)

MISHLER	L. LAWSON
DEIG	WOLKINS
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 416-1; filed April 27, 2007, at 1:28 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 416 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-1.1-12-2, AS AMENDED BY P.L.154-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2. (a) Except as provided in section 17.8 of this chapter, a person who desires to claim the deduction provided by section 1 of this chapter must file a statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home not assessed as real property, or manufactured home not assessed as real property is located. With respect to real property, the statement must be filed during the twelve (12) months before June 11 of each year for which the person wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 31 of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. In addition to the statement required by this subsection, a contract buyer who desires to claim the deduction must submit a copy of the recorded contract or recorded memorandum of the contract, which must contain a legal description sufficient to meet the requirements of IC 6-1.1-5, with the first statement that the buyer files under this section with respect to a particular parcel of real property. Upon receipt of the statement and the recorded contract or recorded memorandum of the contract, the county auditor shall assign a separate description and identification number to the parcel of real property being sold under the contract.**

(b) The statement referred to in subsection (a) must be verified under penalties for perjury, and the statement must contain the following information:

- (1) The balance of the person's mortgage or contract

indebtedness on the assessment date of the year for which the deduction is claimed.

(2) The assessed value of the real property, mobile home, or manufactured home.

(3) The full name and complete residence address of the person and of the mortgagee or contract seller.

(4) The name and residence of any assignee or bona fide owner or holder of the mortgage or contract, if known, and if not known, the person shall state that fact.

(5) The record number and page where the mortgage, contract, or memorandum of the contract is recorded.

(6) A brief description of the real property, mobile home, or manufactured home which is encumbered by the mortgage or sold under the contract.

(7) If the person is not the sole legal or equitable owner of the real property, mobile home, or manufactured home, the exact share of the person's interest in it.

(8) The name of any other county in which the person has applied for a deduction under this section and the amount of deduction claimed in that application.

(c) The authority for signing a deduction application filed under this section may not be delegated by the real property, mobile home, or manufactured home owner or contract buyer to any person except upon an executed power of attorney. The power of attorney may be contained in the recorded mortgage, contract, or memorandum of the contract, or in a separate instrument.

SECTION 2. IC 6-1.1-12-10.1, AS AMENDED BY P.L.154-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: Sec. 10.1. (a) Except as provided in section 17.8 of this chapter, an individual who desires to claim the deduction provided by section 9 of this chapter must file a sworn statement, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home, or manufactured home is located. With respect to real property, the statement must be filed during the twelve (12) months before June 11 of each year for which the individual wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed ~~between January 15 and during the twelve (12) months before March 31~~ **between January 15 and during the twelve (12) months before March 31, inclusive 31** of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing.

(b) The statement referred to in subsection (a) shall be in affidavit form or require verification under penalties of perjury. The statement must be filed in duplicate if the applicant owns, or is buying under a contract, real property, a mobile home, or a manufactured home subject to assessment in more than one (1) county or in more than one (1) taxing district in the same county. The statement shall contain:

(1) the source and exact amount of gross income received by the individual and the individual's spouse during the preceding calendar year;

(2) the description and assessed value of the real property, mobile home, or manufactured home;

(3) the individual's full name and complete residence address;

(4) the record number and page where the contract or memorandum of the contract is recorded if the individual is buying the real property, mobile home, or manufactured home on contract; and

(5) any additional information which the department of local government finance may require.

(c) In order to substantiate the deduction statement, the applicant shall submit for inspection by the county auditor a copy of the applicant's and a copy of the applicant's spouse's income

tax returns for the preceding calendar year. If either was not required to file an income tax return, the applicant shall subscribe to that fact in the deduction statement.

SECTION 3. IC 6-1.1-12-12, AS AMENDED BY P.L.141-2006, SECTION 9, AS AMENDED BY P.L.145-2006, SECTION 16, AND AS AMENDED BY P.L.154-2006, SECTION 14, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Except as provided in section 17.8 of this chapter, a person who desires to claim the deduction provided in section 11 of this chapter must file an application, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home not assessed as real property, or manufactured home not assessed as real property is located. With respect to real property, the application must be filed during the twelve (12) months before ~~May~~ **June** 11 of each year for which the individual wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the application must be filed during the twelve (12) months before March ~~2~~ **31** of each year for which the individual wishes to obtain the deduction. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing.

(b) Proof of blindness may be supported by:

(1) the records of a county office of family and children, the division of family ~~and children~~, resources, or the division of disability ~~aging~~, and rehabilitative services; or

(2) the written statement of a physician who is licensed by this state and skilled in the diseases of the eye or of a licensed optometrist.

(c) The application required by this section must contain the record number and page where the contract or memorandum of the contract is recorded if the individual is buying the real property, mobile home, or manufactured home on a contract that provides that ~~the~~ **the individual** is to pay property taxes on the real property, mobile home, or manufactured home.

SECTION 4. IC 6-1.1-12-15, AS AMENDED BY P.L.154-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) Except as provided in section 17.8 of this chapter, an individual who desires to claim the deduction provided by section 13 or section 14 of this chapter must file a statement with the auditor of the county in which the individual resides. With respect to real property, the statement must be filed during the twelve (12) months before June 11 of each year for which the individual wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March ~~2~~ **31** of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The statement shall contain a sworn declaration that the individual is entitled to the deduction.

(b) In addition to the statement, the individual shall submit to the county auditor for the auditor's inspection:

(1) a pension certificate, an award of compensation, or a disability compensation check issued by the United States Department of Veterans Affairs if the individual claims the deduction provided by section 13 of this chapter;

(2) a pension certificate or an award of compensation issued by the United States Department of Veterans Affairs if the individual claims the deduction provided by section 14 of this chapter; or

(3) the appropriate certificate of eligibility issued to the individual by the Indiana department of veterans' affairs if the individual claims the deduction provided by section 13 or 14 of this chapter.

(c) If the individual claiming the deduction is under guardianship, the guardian shall file the statement required by this section.

(d) If the individual claiming a deduction under section 13 or 14 of this chapter is buying real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property under a contract that provides that the individual is to pay property taxes for the real estate, mobile home, or manufactured home, the statement required by this section must contain the record number and page where the contract or memorandum of the contract is recorded.

SECTION 5. IC 6-1.1-12-17, AS AMENDED BY P.L.154-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. Except as provided in section 17.8 of this chapter, a surviving spouse who desires to claim the deduction provided by section 16 of this chapter must file a statement with the auditor of the county in which the surviving spouse resides. With respect to real property, the statement must be filed during the twelve (12) months before June 11 of each year for which the surviving spouse wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March ~~2~~ **31** of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. The statement shall contain:

- (1) a sworn statement that the surviving spouse is entitled to the deduction; and
- (2) the record number and page where the contract or memorandum of the contract is recorded, if the individual is buying the real property on a contract that provides that the individual is to pay property taxes on the real property.

In addition to the statement, the surviving spouse shall submit to the county auditor for the auditor's inspection a letter or certificate from the United States Department of Veterans Affairs establishing the service of the deceased spouse in the military or naval forces of the United States before November 12, 1918.

SECTION 6. IC 6-1.1-12-17.5, AS AMENDED BY P.L.154-2006, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.5. (a) Except as provided in section 17.8 of this chapter, a veteran who desires to claim the deduction provided in section 17.4 of this chapter must file a sworn statement, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home, or manufactured home is assessed. With respect to real property, the veteran must file the statement during the twelve (12) months before June 11 of each year for which the veteran wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March ~~2~~ **31** of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing.

(b) The statement required under this section shall be in affidavit form or require verification under penalties of perjury. The statement shall be filed in duplicate if the veteran has, or is buying under a contract, real property in more than one (1) county or in more than one (1) taxing district in the same county. The statement shall contain:

- (1) a description and the assessed value of the real property, mobile home, or manufactured home;
- (2) the veteran's full name and complete residence address;
- (3) the record number and page where the contract or memorandum of the contract is recorded, if the individual is buying the real property, mobile home, or manufactured

home on a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home; and

(4) any additional information which the department of local government finance may require.

SECTION 7. IC 6-1.1-12-27.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: Sec. 27.1. Except as provided in section 36 of this chapter, a person who desires to claim the deduction provided by section 26 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property or mobile home is subject to assessment. With respect to real property, the person must file the statement during the twelve (12) months before ~~May~~ **June 11** of each year for which the person desires to obtain the deduction. With respect to a mobile home which is not assessed as real property, the person must file the statement ~~between January 15 and during the twelve (12) months before March 31, inclusive, 31~~ **between January 15 and during the twelve (12) months before March 31, inclusive, 31** of each year for which the person desires to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. On verification of the statement by the assessor of the township in which the real property or mobile home is subject to assessment, the county auditor shall allow the deduction.

SECTION 8. IC 6-1.1-12-30, AS AMENDED BY P.L.154-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: Sec. 30. Except as provided in section 36 of this chapter, a person who desires to claim the deduction provided by section 29 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property or mobile home is subject to assessment. With respect to real property, the person must file the statement ~~between March 1 and during the twelve (12) months before June 11 inclusive, 11~~ **between March 1 and during the twelve (12) months before June 11 inclusive, 11** of each year for which the person desires to obtain the deduction. With respect to a mobile home which is not assessed as real property, the person must file the statement ~~between January 15 and during the twelve (12) months before March 31, inclusive, 31~~ **between January 15 and during the twelve (12) months before March 31, inclusive, 31** of each year for which the person desires to obtain the deduction. On verification of the statement by the assessor of the township in which the real property or mobile home is subject to assessment, the county auditor shall allow the deduction.

SECTION 9. IC 6-1.1-12-35.5, AS AMENDED BY SEA 526-2007, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 35.5. (a) Except as provided in section 36 of this chapter, a person who desires to claim the deduction provided by section 31, 33, 34, or 34.5 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, and proof of certification under subsection (b) or (f) with the auditor of the county in which the property for which the deduction is claimed is subject to assessment. Except as provided in subsection (e), with respect to property that is not assessed under IC 6-1.1-7, the person must file the statement ~~between March 1 and during the twelve (12) months before June 11 inclusive, 11~~ **between March 1 and during the twelve (12) months before June 11 inclusive, 11** of the assessment year. The person must file the statement in each year for which the person desires to obtain the deduction. With respect to a property which is assessed under IC 6-1.1-7, the person must file the statement ~~between January 15 and during the twelve (12) months before March 31, inclusive, 31~~ **between January 15 and during the twelve (12) months before March 31, inclusive, 31** of each year for which the person desires to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. On verification of the statement by the assessor of the township in which the property for which the deduction is claimed is subject to assessment, the county auditor shall allow the

deduction.

(b) This subsection does not apply to an application for a deduction under section 34.5 of this chapter. The department of environmental management, upon application by a property owner, shall determine whether a system or device qualifies for a deduction provided by section 31, 33, or 34 of this chapter. If the department determines that a system or device qualifies for a deduction, it shall certify the system or device and provide proof of the certification to the property owner. The department shall prescribe the form and manner of the certification process required by this subsection.

(c) This subsection does not apply to an application for a deduction under section 34.5 of this chapter. If the department of environmental management receives an application for certification before May 11 of the assessment year, the department shall determine whether the system or device qualifies for a deduction before June 11 of the assessment year. If the department fails to make a determination under this subsection before June 11 of the assessment year, the system or device is considered certified.

(d) A denial of a deduction claimed under section 31, 33, 34, or 34.5 of this chapter may be appealed as provided in IC 6-1.1-15. The appeal is limited to a review of a determination made by the township assessor, county property tax assessment board of appeals, or department of local government finance.

(e) A person who timely files a personal property return under IC 6-1.1-3-7(a) for an assessment year and who desires to claim the deduction provided in section 31 of this chapter for property that is not assessed under IC 6-1.1-7 must file the statement described in subsection (a) ~~between March 1 and during the twelve (12) months before June 11 inclusive~~ of that year. A person who obtains a filing extension under IC 6-1.1-3-7(b) for an assessment year must file the application between March 1 and the extended due date for that year.

(f) This subsection applies only to an application for a deduction under section 34.5 of this chapter. The center for coal technology research established by IC 21-47-4-1, upon receiving an application from the owner of a building, shall determine whether the building qualifies for a deduction under section 34.5 of this chapter. If the center determines that a building qualifies for a deduction, the center shall certify the building and provide proof of the certification to the owner of the building. The center shall prescribe the form and procedure for certification of buildings under this subsection. If the center receives an application for certification of a building under section 34.5 of this chapter before May 11 of an assessment year:

- (1) the center shall determine whether the building qualifies for a deduction before June 11 of the assessment year; and
- (2) if the center fails to make a determination before June 11 of the assessment year, the building is considered certified.

SECTION 10. IC 6-1.1-20.9-3, AS AMENDED BY P.L.154-2006, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An individual who desires to claim the credit provided by section 2 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the homestead is located. The statement shall include the parcel number or key number of the real estate and the name of the city, town, or township in which the real estate is located. With respect to real property, the statement must be filed during the twelve (12) months before June 11 of the year prior to the first year for which the person wishes to obtain the credit for the homestead. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 2 31 of the first year for which the individual wishes to obtain the credit. The statement may be filed in person or by

mail. If mailed, the mailing must be postmarked on or before the last day for filing. The statement applies for that first year and any succeeding year for which the credit is allowed.

(b) The certified statement referred to in subsection (a) shall contain the name of any other county and township in which the individual owns or is buying real property.

(c) If an individual who is receiving the credit provided by this chapter changes the use of the individual's real property, so that part or all of that real property no longer qualifies for the homestead credit provided by this chapter, the individual must file a certified statement with the auditor of the county, notifying the auditor of the change of use within sixty (60) days after the date of that change. An individual who changes the use of the individual's real property and fails to file the statement required by this subsection is liable for the amount of the credit the individual was allowed under this chapter for that real property.

(d) An individual who receives the credit provided by section 2 of this chapter for property that is jointly held with another owner in a particular year and remains eligible for the credit in the following year is not required to file a statement to reapply for the credit following the removal of the joint owner if:

- (1) the individual is the sole owner of the property following the death of the individual's spouse;
- (2) the individual is the sole owner of the property following the death of a joint owner who was not the individual's spouse; or
- (3) the individual is awarded sole ownership of property in a divorce decree.

SECTION 11. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] IC 6-1.1-12-2, IC 6-1.1-12-10.1, IC 6-1.1-12-12, IC 6-1.1-12-15, IC 6-1.1-12-17, IC 6-1.1-12-17.5, IC 6-1.1-12-27.1, IC 6-1.1-12-30, IC 6-1.1-12-35.5, and IC 6-1.1-20.9-3, all as amended by this act, apply only to property taxes first due and payable after December 31, 2007.

SECTION 12. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] (a) This SECTION applies instead of IC 6-1.1-12-35.5 before its amendment by this act. Except as provided in IC 6-1.1-12-36, a person who desires to claim the deduction provided by IC 6-1.1-12-31, IC 6-1.1-12-33, IC 6-1.1-12-34, or IC 6-1.1-12-34.5 must file a certified statement in duplicate, on forms prescribed by the department of local government finance, and proof of certification under subsection (b) or (f) with the auditor of the county in which the property for which the deduction is claimed is subject to assessment. Except as provided in subsection (e), with respect to property that is not assessed under IC 6-1.1-7, the person must file the statement during the twelve (12) months before June 11 of the assessment year. The person must file the statement in each year for which the person desires to obtain the deduction. With respect to a property that is assessed under IC 6-1.1-7, the person must file the statement during the twelve (12) months before March 31 of each year for which the person desires to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. On verification of the statement by the assessor of the township in which the property for which the deduction is claimed is subject to assessment, the county auditor shall allow the deduction.

(b) This subsection does not apply to an application for a deduction under IC 6-1.1-12-34.5. The department of environmental management, upon application by a property owner, shall determine whether a system or device qualifies for a deduction provided by IC 6-1.1-12-31, IC 6-1.1-12-33, or IC 6-1.1-12-34. If the department determines that a system or device qualifies for a deduction, the department shall certify the system or device and provide proof of the certification to the property owner. The department shall prescribe the form and manner of the certification process

required by this subsection.

(c) This subsection does not apply to an application for a deduction under IC 6-1.1-12-34.5. If the department of environmental management receives an application for certification before May 11 of the assessment year, the department shall determine whether the system or device qualifies for a deduction before June 11 of the assessment year. If the department fails to make a determination under this subsection before June 11 of the assessment year, the system or device is considered certified.

(d) A denial of a deduction claimed under IC 6-1.1-12-31, IC 6-1.1-12-33, IC 6-1.1-12-34, or IC 6-1.1-12-34.5 may be appealed as provided in IC 6-1.1-15. The appeal is limited to a review of a determination made by the township assessor, county property tax assessment board of appeals, or department of local government finance.

(e) A person who timely files a personal property return under IC 6-1.1-3-7(a) for an assessment year and who desires to claim the deduction provided in IC 6-1.1-12-31 for property that is not assessed under IC 6-1.1-7 must file the statement described in subsection (a) during the twelve (12) months before June 11 of that year. A person who obtains a filing extension under IC 6-1.1-3-7(b) for an assessment year must file the application between March 1 and the extended due date for that year.

(f) This subsection applies only to an application for a deduction under IC 6-1.1-12-34.5. The center for coal technology research established by IC 21-47-4-1, upon receiving an application from the owner of a building, shall determine whether the building qualifies for a deduction under IC 6-1.1-12-34.5. If the center determines that a building qualifies for a deduction, the center shall certify the building and provide proof of the certification to the owner of the building. The center shall prescribe the form and procedure for certification of buildings under this subsection. If the center receives an application for certification of a building under IC 6-1.1-12-34.5 before May 11 of an assessment year:

- (1) the center shall determine whether the building qualifies for a deduction before June 11 of the assessment year; and
- (2) if the center fails to make a determination before June 11 of the assessment year, the building is considered certified.

(g) This SECTION expires June 30, 2007.

SECTION 13. An emergency is declared for this act.

(Reference is to ESB 416 as reprinted March 16, 2007.)

R. YOUNG	DEMBOWSKI
KENLEY	SAUNDERS
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT EHB 1266-1; filed April 27, 2007, at 1:29 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1266 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enactment clause and insert the following:

SECTION 1. IC 20-12-21-6.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6.3. (a) This

section applies to an individual who:

- (1) meets the requirements set forth in section 6 of this chapter; and
- (2) before the date that eligibility is determined by the commission, has been placed by or with the consent of the department of child services, by a court order, or by a licensed child placing agency in:

- (A) a foster family home;
- (B) the home of a relative or other unlicensed caretaker;
- (C) a child caring institution; or
- (D) a group home.

(b) The commission shall consider an individual described in subsection (a) as a full-need student under the commission's rules when determining the eligibility of the individual to receive financial aid administered by the commission under this chapter.

SECTION 2. IC 20-12-70-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this chapter, "eligible student" means a student who meets the following requirements:

- (1) Is a resident of Indiana.
- (2) Is enrolled in grade 8 at a:
 - (A) public school; or
 - (B) an accredited nonpublic school that is accredited by:
 - (i) the state board; or
 - (ii) a national or regional accrediting agency whose accreditation is accepted as a school improvement plan under IC 20-31-4-2.

(3) Is eligible for free or reduced priced lunches under the national school lunch program.

(4) Agrees in writing, together with the student's custodial parents or guardian, that the student will:

- (A) graduate from a secondary school located in Indiana that meets the admission criteria of an institution of higher learning;
- (B) not illegally use controlled substances (as defined in IC 35-48-1-9);
- (C) not commit a crime or infraction described in IC 9-30-5;
- (D) not commit any other crime or delinquent act (as described in IC 31-37-1-2 or IC 31-37-2-2 through IC 31-37-2-5 (or IC 31-6-4-1(a)(1) through IC 31-6-4-1(a)(5) before their repeal));
- (E) when the eligible student is a senior in high school, timely apply:

- (i) to an institution of higher learning for admission; and
- (ii) for any federal and state student financial assistance available to the eligible student to attend an institution of higher learning; and

(F) achieve a cumulative grade point average upon graduation of at least 2.0 on a 4.0 grading scale (or its equivalent if another grading scale is used) for courses taken during grades 9, 10, 11, and 12.

(b) The term includes a student who:

- (1) before or during grade 7 or grade 8, is placed by or with the consent of the department of child services, by a court order, or by a child placing agency in:

- (A) a foster family home;
- (B) the home of a relative or other unlicensed caretaker;
- (C) a child caring institution; or
- (D) a group home;

(2) agrees in writing, together with the student's caseworker (as defined in IC 31-9-2-11), to the conditions set forth in subsection (a)(4); and

(3) except for the requirement set forth in subdivision (2), otherwise meets the requirements of this section.

SECTION 3. IC 20-12-70-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. The commission shall adopt rules under IC 4-22-2 to implement this chapter, including:

- (1) rules regarding the establishment of appeals procedures for individuals who become disqualified from the program under section 12 of this chapter; ~~and~~
- (2) notwithstanding section 2 of this chapter, rules that may include students who are in grades other than grade 8 as eligible students; **and**
- (3) rules that allow a student described in section 2(b) of this chapter to become an eligible student while the student is in high school, if the student agrees to comply with the requirements set forth in section 2(a)(4)(B) through section 2(a)(4)(D) of this chapter for not less than six (6) months after graduating from high school.**

SECTION 4. IC 20-12-70-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. **(a) This section applies to a student described in section 2(b) of this chapter.**

(b) A caseworker shall provide each student to whom the caseworker is assigned information concerning the program at the appropriate time for the student to receive the information and explain the program to the student.

(c) A student who receives information under this section shall sign a written acknowledgment that the student received the information. The written acknowledgment must be placed in the student's case file.

SECTION 5. IC 21-11-9-4, AS ADDED BY SEA 526-2007, SECTION 522, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. The commission shall adopt rules under IC 4-22-2 to implement IC 21-12-6, including:

- (1) rules regarding the establishment of appeals procedures for individuals who become disqualified from the program under IC 21-12-6-9; ~~and~~
- (2) notwithstanding IC 21-12-6-5, rules that may include students who are in grades other than grade 8 as eligible students; **and**
- (3) rules that allow a student described in IC 21-12-6-5(b) to become an eligible student while the student is in high school, if the student agrees to comply with the requirements set forth in IC 21-12-6-5(a)(4)(B) through IC 21-12-6-5(a)(4)(D) for not less than six (6) months after graduating from high school.**

SECTION 6. IC 21-12-3-1, AS ADDED BY SEA 526-2007, SECTION 523, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a) An applicant is eligible for a first year higher education award under this chapter if the student meets the following requirements:**

- (1) The applicant is a resident of Indiana, as defined by the commission.**
- (2) The applicant:**
 - (A) has successfully completed the program of instruction at an approved secondary school;**
 - (B) has been granted a:**
 - (i) high school equivalency certificate before July 1, 1995; or**
 - (ii) state of Indiana general educational development (GED) diploma under IC 20-20-6 or IC 20-10.1-12.1 (before its repeal); or**
 - (C) is a student in good standing at an approved secondary school and is engaged in a program that in due course will be completed by the end of the current academic year.**
- (3) The financial resources reasonably available to the applicant, as defined by the commission, are such that, in the absence of a higher education award under this chapter, the applicant would be deterred from completing the applicant's education at the approved postsecondary**

educational institution that the applicant has selected and that has accepted the applicant. In determining the financial resources reasonably available to an applicant to whom IC 21-11-7 applies, the commission must consider the financial resources of the applicant's legal parent.

(4) The applicant will use the award initially at that approved postsecondary educational institution.

(5) If the student is already enrolled in an approved postsecondary educational institution, the applicant must be a full-time student and be making satisfactory progress, as determined by the commission, toward a first baccalaureate degree.

(6) The student declares, in writing, a specific educational objective or course of study and enrolls in:

- (A) courses that apply toward the requirements for completion of that objective or course of study; or**
- (B) courses designed to help the student develop the basic skills that the student needs to successfully achieve that objective or continue in that course of study.**

(b) This subsection applies to an individual who:

- (1) meets the requirements set forth in subsection (a); and**
- (2) before the date that eligibility is determined by the commission, has been placed by or with the consent of the department of child services, by a court order, or by a licensed child placing agency in:**
 - (A) a foster family home;**
 - (B) the home of a relative or other unlicensed caretaker;**
 - (C) a child caring institution; or**
 - (D) a group home.**

The commission shall consider an individual to whom this subsection applies as a full-need student under the commission's rules when determining the eligibility of the individual to receive financial aid administered by the commission under this chapter.

SECTION 7. IC 21-12-6-5, AS ADDED BY SEA 526-2007, SECTION 523, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. **(a) To qualify to participate in the program, a student must meet the following requirements:**

- (1) Be a resident of Indiana.**
- (2) Be:**
 - (i) enrolled in grade 8 at a:**
 - (i) public school; or an accredited**
 - (ii) nonpublic school that is accredited either by the state board of education or by a national or regional accrediting agency whose accreditation is accepted as a school improvement plan under IC 20-31-4-2; or**
 - (B) otherwise qualified under the rules of the commission that are adopted under IC 21-11-9-4 to include students who are in grades other than grade 8 as eligible students.**
- (3) Be eligible for free or reduced priced lunches under the national school lunch program.**
- (4) Agree, in writing, together with the student's custodial parents or guardian, that the student will:**
 - (A) graduate from a secondary school located in Indiana that meets the admission criteria of an eligible institution;**
 - (B) not illegally use controlled substances (as defined in IC 35-48-1-9);**
 - (C) not commit a crime or an infraction described in IC 9-30-5;**
 - (D) not commit any other crime or delinquent act (as described in IC 31-37-1-2 or IC 31-37-2-2 through IC 31-37-2-5 (or IC 31-6-4-1(a)(1) through IC 31-6-4-1(a)(5) before their repeal));**

(E) timely apply, when the eligible student is a senior in high school:

- (i) for admission to an eligible institution; and
- (ii) for any federal and state student financial assistance available to the eligible student to attend an eligible institution; and

(F) achieve a cumulative grade point average upon graduation of at least 2.0 on a 4.0 grading scale (or its equivalent if another grading scale is used) for courses taken during grades 9, 10, 11, and 12.

(b) The term includes a student who:

(1) before or during grade 7 or grade 8, is placed by or with the consent of the department of child services, by a court order, or by a child placing agency in:

- (A) a foster family home;**
- (B) the home of a relative or other unlicensed caretaker;**
- (C) a child caring institution; or**
- (D) a group home;**

(2) agrees in writing, together with the student's caseworker (as defined in IC 31-9-2-11), to the conditions set forth in subsection (a)(4); and

(3) except as provided in subdivision (2), otherwise meets the requirements of subsection (a).

SECTION 8. IC 21-12-6-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 14. (a) This section applies to a student described in section 2(b) of this chapter.**

(b) A caseworker shall provide each student to whom the caseworker is assigned information concerning the program at the appropriate time for the student to receive the information and explain the program to the student.

(c) A student who receives information under this section shall sign a written acknowledgment that the student received the information. The written acknowledgment must be placed in the student's case file.

SECTION 9. [EFFECTIVE UPON PASSAGE] **(a) Before June 30, 2008, the state student assistance commission shall offer an opportunity to become an eligible student (as defined in IC 20-12-70-2(a), as amended by this act (before its repeal), and IC 21-12-6-5(a), as amended by this act) to any student who, during the 2005-2006 school year or 2006-2007 school year:**

- (1) met the eligibility criteria set forth in IC 20-12-70-2(a), as amended by this act (before its repeal), or IC 21-12-6-5(a), as amended by this act, as if IC 20-12-70-2(a)(2)(B), as amended by this act (before its repeal), or IC 21-12-6-5(a)(2)(A)(ii), as amended by this act, had been in effect at the time; and**
- (2) was enrolled in grade 8 at a nonpublic school that is accredited by a method set forth in IC 20-12-70-2(a)(2)(B), as amended by this act (before its repeal), or IC 21-12-6-5(a)(2)(A)(ii), as amended by this act.**

(b) This SECTION expires July 1, 2008.

SECTION 10. **An emergency is declared for this act.**

(Reference is to EHB 1266 as printed March 16, 2007.)

AVERY	LUBBERS
NOE	ROGERS
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1821-1; filed April 27, 2007, at 1:31 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1821 respectfully reports that said two committee have conferred and agreed as follows to

wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 10-13-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 16. (a) As used in this chapter, "qualified entity" means a business or an organization, whether public, private, for-profit, nonprofit, or voluntary, that provides care or care placement services.**

(b) The term includes the following:

(1) A business or an organization that licenses or certifies others to provide care or care placement services.

(2) A home health agency licensed under IC 16-27-1.

(3) A personal services agency licensed under IC 16-27-4.

SECTION 2. IC 10-13-3-39, AS AMENDED BY P.L.234-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 39. (a) The department is designated as the authorized agency to receive requests for, process, and disseminate the results of national criminal history background checks that comply with this section and 42 U.S.C. 5119a.**

(b) A qualified entity may contact the department to request a national criminal history background check on any of the following persons:

(1) A person who seeks to be or is employed with the qualified entity. A request under this subdivision must be made not later than three (3) months after the person is initially employed by the qualified entity.

(2) A person who seeks to volunteer or is a volunteer with the qualified entity. A request under this subdivision must be made not later than three (3) months after the person initially volunteers with the qualified entity.

(c) A qualified entity must submit a request under subsection (b) in the form required by the department and provide a set of the person's fingerprints and any required fees with the request.

(d) If a qualified entity makes a request in conformity with subsection (b), the department shall submit the set of fingerprints provided with the request to the Federal Bureau of Investigation for a national criminal history background check for convictions described in IC 20-26-5-11. The department shall respond to the request in conformity with:

(1) the requirements of 42 U.S.C. 5119a; and

(2) the regulations prescribed by the Attorney General of the United States under 42 U.S.C. 5119a.

(e) This subsection:

(1) applies to a qualified entity that:

~~(1) (A) is not a school corporation or a special education cooperative; or~~

~~(2) (B) is a school corporation or a special education cooperative and seeks a national criminal history background check for a volunteer; and~~

(2) does not apply to a qualified entity that is a:

(A) home health agency licensed under IC 16-27-1; or

(B) personal services agency licensed under IC 16-27-4.

After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall make a determination whether the applicant has been convicted of an offense described in IC 20-26-5-11 and convey the determination to the requesting qualified entity.

(f) This subsection applies to a qualified entity that:

(1) is a school corporation or a special education cooperative; and

(2) seeks a national criminal history background check to

determine whether to employ or continue the employment of a certificated employee or a noncertificated employee of a school corporation or an equivalent position with a special education cooperative.

After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department may exchange identification records concerning convictions for offenses described in IC 20-26-5-11 with the school corporation or special education cooperative solely for purposes of making an employment determination. The exchange may be made only for the official use of the officials with authority to make the employment determination. The exchange is subject to the restrictions on dissemination imposed under P.L.92-544, (86 Stat. 1115) (1972).

(g) This subsection applies to a qualified entity (as defined in IC 10-13-3-16) that is a public agency under IC 5-14-1.5-2(a)(1). After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall provide a copy to the public agency. Except as permitted by federal law, the public agency may not share the information contained in the national criminal history background check with a private agency.

(h) This subsection applies to a qualified entity that is a:
(1) home health agency licensed under IC 16-27-1; or
(2) personal services agency licensed under IC 16-27-4.

After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall make a determination whether the applicant has been convicted of an offense described in IC 16-27-2-5(a) and convey the determination to the requesting qualified entity.

SECTION 3. IC 12-10-17.1-7, AS ADDED BY P.L.141-2006, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. As used in this chapter, "licensed health professional" means any of the following:

- (1) A registered nurse.
- (2) A licensed practical nurse.
- (3) A physician with an unlimited license to practice medicine or osteopathic medicine.
- (4) A licensed dentist.
- (5) A licensed chiropractor.
- (6) A licensed optometrist.
- (7) A licensed pharmacist.
- (8) A licensed physical therapist.
- (9) A ~~certified~~ **licensed** occupational therapist.
- (10) A certified psychologist.
- (11) A licensed podiatrist.
- (12) A licensed speech-language pathologist or audiologist.

SECTION 4. IC 16-18-2-244.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 244.5. "National criminal history background check", for purposes of IC 16-27-2, has the meaning set forth in IC 16-27-2-2.1.**

SECTION 5. IC 16-27-0.5-1, AS AMENDED BY P.L.152-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) The home health care services and hospice services council is established.

(b) The council consists of sixteen (16) members as follows:

- (1) One (1) licensed physician experienced in home health care.
- (2) One (1) licensed physician with certification in hospice and palliative medicine.
- (3) Four (4) individuals as follows:
 - (A) One (1) individual engaged in the administration of a nonhospital based home health agency.
 - (B) One (1) individual engaged in the administration of a hospital based home health agency.
 - (C) One (1) individual engaged in the administration of:

- (i) a nonhospital based hospice; or
- (ii) a hospice licensed under IC 16-25-3 that provides in-patient care.

(D) One (1) individual engaged in the administration of a hospital based hospice.

(4) One (1) registered nurse who is licensed under IC 25-23 and experienced in home health care.

(5) One (1) registered nurse who is licensed under IC 25-23 with certification in hospice and palliative medicine.

(6) One (1):

- (A) physical therapist licensed under IC 25-27;
- (B) occupational therapist ~~certified~~ **licensed** under IC 25-23.5; or
- (C) speech-language pathologist licensed under IC 25-35.6;

experienced in home health care.

(7) One (1) citizen having knowledge of or experience in hospice care.

(8) One (1) citizen having knowledge of or experience in home health agency care.

(9) One (1) registered pharmacist who is licensed under IC 25-26 with experience in hospice and palliative medicine.

(10) One (1) respiratory care practitioner who is licensed under IC 25-34.5 and experienced in home care.

(11) One (1) individual who is a bereavement counselor with experience in hospice care.

(12) The commissioner or the commissioner's designee.

(13) The secretary of family and social services or the secretary's designee.

(c) The governor shall appoint the members of the council designated by subsection (b)(1) through (b)(11).

(d) Except for the members of the council designated by subsection (b)(12) through (b)(13), all appointments are for four (4) years. If a vacancy occurs, the appointee serves for the remainder of the unexpired term. A vacancy shall be filled from the same group that was represented by the outgoing member.

(e) Except for the members of the council designated by subsection (b)(3), a member of the council may not:

- (1) have an ownership interest in the operation of; or
- (2) serve as a voting member on the governing body of; a home health agency licensed under this article or a hospice licensed under IC 16-25.

SECTION 6. IC 16-27-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter, "health care professional" means any of the following:

- (1) A licensed physician.
- (2) A licensed dentist.
- (3) A licensed chiropractor.
- (4) A licensed podiatrist.
- (5) A licensed optometrist.
- (6) A nurse licensed under IC 25-23-1.
- (7) A physical therapist licensed under IC 25-27 or a physical therapy assistant certified under IC 25-27.
- (8) A speech-language pathologist or an audiologist licensed under IC 25-35.6-3.
- (9) A speech-language pathology aide or an audiology aide (as defined in IC 25-35.6-1-2).
- (10) An:

- (A) occupational therapist **licensed**; or
- (B) occupational ~~therapist~~ **therapy** assistant certified; under IC 25-23.5.

(11) A social worker licensed under IC 25-23.6 or a social work assistant.

(12) A pharmacist licensed under IC 25-26-13.

SECTION 7. IC 16-27-2-1, AS AMENDED BY HEA 1241-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in

this chapter, "health care professional" means any of the following:

- (1) A licensed physician or a physician assistant (as defined in IC 25-22.5-1-1.1).
- (2) A dentist licensed under IC 25-14.
- (3) A chiropractor licensed under IC 25-10-1.
- (4) A podiatrist licensed under IC 25-29.
- (5) An optometrist licensed under IC 25-24.
- (6) A nurse licensed under IC 25-23-1.
- (7) A physical therapist licensed under IC 25-27 or a physical therapy assistant certified under IC 25-27.
- (8) A speech-language pathologist or an audiologist licensed under IC 25-35.6-3.
- (9) A speech-language pathology aide or an audiology aide (as defined in IC 25-35.6-1-2).
- (10) An:
 - (A) occupational therapist **licensed**; or
 - (B) occupational ~~therapist~~ **therapy** assistant **certified**; ~~certified~~ under IC 25-23.5.
- (11) A social worker licensed under IC 25-23.6 or a clinical social worker licensed under IC 25-23.6.
- (12) A pharmacist licensed under IC 25-26-13.

SECTION 8. IC 16-27-2-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2.1. As used in this chapter, "national criminal history background check" has the meaning set forth in IC 10-13-3-12.**

SECTION 9. IC 16-27-2-4, AS AMENDED BY P.L.212-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 shall apply, not more than three (3) business days after the date that an employee begins to provide services in a patient's temporary or permanent residence, for a ~~copy of determination concerning the employee's limited national criminal history background check~~ from the Indiana central repository for criminal history information under ~~IC 10-13-3-1~~ **IC 10-13-3-39**.

(b) A home health agency or personal services agency may not employ a person to provide services in a patient's or client's temporary or permanent residence for more than three (3) business days without applying for a **determination concerning that person's limited national criminal history background check** as required by subsection (a).

SECTION 10. IC 16-27-2-5, AS AMENDED BY P.L.212-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) Except as provided in subsection (b), a person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 may not employ a person to provide services in a patient's or client's temporary or permanent residence if a **determination of that person's limited national criminal history background check** indicates that the person has been convicted of any of the following:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Exploitation of an endangered adult (IC 35-46-1-12).
- (4) Failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13).
- (5) Theft (IC 35-43-4), if the conviction for theft occurred less than ten (10) years before the person's employment application date.

(b) A home health agency or personal services agency may not employ a person to provide services in a patient's or client's temporary or permanent residence for more than twenty-one (21) calendar days without receipt of a **determination of that person's limited national criminal history background check** required by section 4 of this chapter, unless ~~either the Indiana central repository for criminal history information under IC 10-13-3-~~

~~state police department or the Federal Bureau of Investigation under IC 10-13-3-39~~ is ~~society~~ responsible for failing to provide ~~the determination of the person's limited national criminal history background check~~ to the home health agency or personal services agency within the time required under this subsection.

SECTION 11. IC 16-27-2-6, AS AMENDED BY P.L.212-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) A person who operates a home health agency or a personal services agency under IC 16-27-4 is responsible for the payment of fees under ~~IC 10-13-3-30~~ **IC 10-13-3-39** and other fees required under section 4 of this chapter.

(b) A home health agency or personal services agency may require a person who applies to the home health agency or personal services agency for employment to provide services in a patient's or client's temporary or permanent residence:

- (1) to pay the cost of fees described in subsection (a) to the home health agency or personal services agency at the time the person submits an application for employment; or
- (2) to reimburse the home health agency or personal services agency for the cost of fees described in subsection (a).

SECTION 12. IC 20-12-21.7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) The commission for higher education under IC 20-12-0.5 shall provide the commission with the most recent information concerning:

- (1) the number of minority students enrolled at each eligible institution; and
- (2) the number of individuals who are:
 - (A) enrolled at each eligible institution; and
 - (B) pursuing a course of study that would enable the student, upon graduation, to be:

- (i) licensed to teach special education in an accredited school; or
- (ii) ~~certified licensed~~ to practice occupational therapy or licensed to practice physical therapy in an accredited school, in a vocational rehabilitation center under IC 12-12-1-4.1(a)(1), or in a community mental retardation or other developmental disabilities center under IC 12-29 as part of the special education program.

(b) The commission shall allocate the available money from the fund to each eligible institution in proportion to the number of minority students enrolled at each eligible institution as described in subsection (a) based upon the information received by the commission under subsection (a).

(c) Each eligible institution shall determine the scholarship recipients under this chapter:

- (1) based upon the criteria set forth in section 9 of this chapter or section 9.1 of this chapter, whichever applies, and the rules adopted by the commission under section 12 of this chapter; and
- (2) with a priority on granting scholarships in the following order:

- (A) Minority students seeking a renewal scholarship.
- (B) Newly enrolling minority students.
- (C) Special education services students seeking a renewal scholarship.
- (D) Newly enrolling special education services students.

However, the eligible institution may not grant a scholarship renewal to a student for an academic year that ends later than six (6) years after the date the student received the initial scholarship under this chapter.

(d) Any funds that:

- (1) are allocated to an eligible institution; and
 - (2) are not utilized for scholarships under this chapter;
- shall be returned to the commission for reallocation by the

commission to any other eligible institution in need of additional funds.

SECTION 13. IC 20-12-21.7-9.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9.1. (a) To initially qualify for a scholarship from the fund as the fund pertains to individuals described in section 8(a)(2) of this chapter, an individual must:

- (1) be admitted to an eligible institution of higher learning as a full-time student or be attending an eligible institution of higher learning as a full-time student;
- (2) intend to pursue or, in the case of a student who is attending an eligible institution of higher learning, pursue a course of study that would enable the student, upon graduation:

(A) to be licensed to teach special education in an accredited school under rules adopted by the Indiana state board of education;

(B) to be ~~certified~~ **licensed** to practice occupational therapy:

- (i) in an accredited school;
- (ii) in a vocational rehabilitation center under IC 12-12-1-4.1(a)(1); or
- (iii) in a community mental retardation or other developmental disabilities center under IC 12-29 except IC 12-29-3-6; or

(C) to be licensed to practice physical therapy:

- (i) in an accredited school;
- (ii) in a vocational rehabilitation center under IC 12-12-1-4.1(a)(1); or
- (iii) in a community mental retardation or other developmental disabilities center under IC 12-29 except IC 12-29-3-6;

(3) agree, in writing, to:

- (A) teach in an accredited school; or
- (B) practice occupational therapy or physical therapy, whichever applies:
 - (i) in an accredited school in Indiana;
 - (ii) in a vocational rehabilitation center under IC 12-12-1-4.1(a)(1); or
 - (iii) in a community mental retardation or other developmental disabilities center under IC 12-29 except IC 12-29-3-6;

at least three (3) of the first five (5) years following the student's licensure as a teacher, ~~certification licensure~~ as an occupational therapist, or licensure as a physical therapist; and

(4) meet any other minimum criteria established by the commission.

(b) To qualify for a scholarship renewal from the fund under this section, the individual must:

- (1) comply with the criteria set forth in subsection (a); and
- (2) maintain at least the cumulative grade point average:
 - (A) that is required by an eligible institution for admission to the eligible institution's school of education; or
 - (B) of 2.0 on a 4.0 grading scale or its equivalent as established by the eligible institution if the eligible institution's school of education does not require a certain minimum cumulative grade point average.

SECTION 14. IC 20-28-1-11, AS AMENDED BY SEA 94-2007, SECTION 177, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. "School psychology" means the following:

(1) Administering, scoring, and interpreting educational, cognitive, career, vocational, behavioral, and affective tests and procedures that address a student's:

- (A) education;
- (B) developmental status;
- (C) attention skills; and

(D) social, emotional, and behavioral functioning;

as they relate to the student's learning or training in the academic or vocational environment.

(2) Providing consultation, collaboration, and intervention services (not including psychotherapy) and providing referral to community resources to:

- (A) students;
- (B) parents of students;
- (C) teachers;
- (D) school administrators; and
- (E) school staff;

concerning learning and performance in the educational process.

(3) Participating in or conducting research relating to a student's learning and performance in the educational process:

- (A) regarding the educational, developmental, career, vocational, or attention functioning of the student; or
- (B) screening social, affective, and behavioral functioning of the student.

(4) Providing inservice or continuing education services relating to learning and performance in the educational process to schools, parents, or others.

(5) Supervising school psychology services.

(6) Referring a student to:

(A) a speech-language pathologist or an audiologist licensed under IC 25-35.6 for services for speech, hearing, and language disorders; or

(B) an occupational therapist ~~certified~~ **licensed** under IC 25-23.5 for occupational therapy services;

by a school psychologist who is employed by a school corporation and who is defined as a practitioner of the healing arts for the purpose of referrals under 42 CFR 440.110.

The term does not include the diagnosis or treatment of mental and nervous disorders, except for conditions and interventions provided for in state and federal mandates affecting special education and vocational evaluations as the evaluations relate to the assessment of handicapping conditions and special education decisions or as the evaluations pertain to the placement of children and the placement of adults with a developmental disability.

SECTION 15. IC 21-13-2-5, AS ADDED BY SEA 526-2007, SECTION 254, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. An individual qualifies for an initial scholarship from the fund if the individual:

(1) is admitted to an eligible institution as a full-time student or is attending an eligible institution as a full-time student;

(2) either intends to pursue or, in the case of a student who is attending an eligible institution, pursues a course of study that would enable the student, upon graduation, to be:

(A) licensed to teach special education in an accredited school under rules adopted by the Indiana state board of education;

(B) ~~certified~~ **licensed** to practice occupational therapy:

- (i) in an accredited school;
- (ii) in a vocational rehabilitation center under IC 12-12-1-4.1(a)(1); or
- (iii) in a community mental retardation or other developmental disabilities center under IC 12-29 except IC 12-29-3-6; or

(C) licensed to practice physical therapy:

- (i) in an accredited school;
- (ii) in a vocational rehabilitation center under IC 12-12-1-4.1(a)(1); or
- (iii) in a community mental retardation or other developmental disabilities center under IC 12-29 except IC 12-29-3-6;

- (3) agrees in writing to:
 - (A) teach in an accredited school; or
 - (B) practice occupational therapy or physical therapy, whichever applies:
 - (i) in an accredited school in Indiana;
 - (ii) in a vocational rehabilitation center under IC 12-12-1-4.1(a)(1); or
 - (iii) in a community mental retardation or other developmental disabilities center under IC 12-29 except IC 12-29-3-6;

for at least three (3) of the first five (5) years following the student's licensure as a teacher, ~~certification licensure~~ as an occupational therapist, or licensure as a physical therapist; and

- (4) meets any other minimum criteria established by the commission.

SECTION 16. IC 21-13-2-10, AS ADDED BY SEA 526-2007, SECTION 254, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. The commission for higher education shall provide the commission with the most recent information concerning:

- (1) the number of minority students enrolled at each eligible institution; and
- (2) the number of individuals who are:
 - (A) enrolled at each eligible institution; and
 - (B) pursuing a course of study that would enable the student, upon graduation, to be:
 - (i) licensed to teach special education in an accredited school; or
 - (ii) ~~certified~~ **licensed** to practice occupational therapy or licensed to practice physical therapy in an accredited school, in a vocational rehabilitation center under IC 12-12-1-4.1(a)(1), or in a community mental retardation or other developmental disabilities center under IC 12-29 as part of the special education program.

SECTION 17. IC 25-1-4-5, AS ADDED BY P.L.157-2006, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) Notwithstanding any other law, if the board determines that a practitioner has not complied with this chapter **or IC 25-1-8-6** at the time that the practitioner applies for license renewal **or reinstatement** or after an audit conducted under section 3 of this chapter, the board shall do the following:

- (1) Send the practitioner notice of noncompliance by certified mail.
- (2) As a condition of license renewal **or reinstatement**, require the practitioner to comply with subsection (b).
- (3) **For license renewal**, issue a conditional license to the practitioner that is effective until the practitioner complies with subsection (b).
- (b) Upon receipt of a notice of noncompliance under subsection (a), a practitioner shall do either of the following:
 - (1) If the practitioner believes that the practitioner has complied with this chapter **or IC 25-1-8-6, if applicable**, within twenty-one (21) days of receipt of the notice, send written notice to the board requesting a review so that the practitioner may submit proof of compliance.
 - (2) If the practitioner does not disagree with the board's determination of noncompliance, do the following:
 - (A) Except as provided in subsection (d), pay to the board a civil penalty not to exceed one thousand dollars (\$1,000) within twenty-one (21) days of receipt of the notice.
 - (B) Acquire, within six (6) months after receiving the notice, the number of credit hours needed to achieve full compliance.
 - (C) Comply with all other provisions of this chapter.
- (c) If a practitioner fails to comply with subsection (b), the

board shall immediately suspend **or refuse to reinstate** the license of the practitioner and send notice of the suspension **or refusal** to the practitioner by certified mail.

(d) If the board determines that a practitioner has knowingly or intentionally made a false or misleading statement to the board concerning compliance with the continuing education requirements, in addition to the requirements under this section the board may impose a civil penalty of not more than five thousand dollars (\$5,000) under subsection (b)(2)(A).

(e) The board shall:

- (1) reinstate a ~~practitioner suspended under subsection (c);~~ **practitioner's license**; or
 - (2) renew the practitioner's license in place of the conditional license issued under subsection (a)(3);
- if the practitioner supplies proof of compliance with this chapter under subsection (b)(1) **or IC 25-1-8-6, if applicable**.

SECTION 18. IC 25-1-4-6, AS ADDED BY P.L.157-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) Notwithstanding any other law, if at the time a practitioner applies for license renewal **or reinstatement** or after an audit conducted under section 3 of this chapter, the board determines that the practitioner has failed to comply with this chapter **or IC 25-1-8-6, if applicable**, and the practitioner has previously received a notice of noncompliance under section 5(a) of this chapter during the preceding license period, the board shall do the following:

- (1) Provide the practitioner notice of noncompliance by certified mail.
 - (2) Deny the practitioner's application for license renewal **or reinstatement**.
 - (b) The board shall reinstate a license not renewed under subsection (a) upon occurrence of the following:
 - (1) Payment by a practitioner to the board of a civil penalty determined by the board, but not to exceed one thousand dollars (\$1,000).
 - (2) Acquisition by the practitioner of the number of credit hours required to be obtained by the practitioner during the relevant license period.
 - (3) The practitioner otherwise complies with this chapter.
- SECTION 19. IC 25-1-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Notwithstanding any other provision regarding the fees to be assessed by a board, a board shall establish by rule and cause to be collected fees for the following:

- (1) Examination of applicants for licensure, registration, or certification.
- (2) Issuance, renewal, or transfer of a license, registration, or certificate.
- (3) Restoration of an expired license, registration, or certificate when such action is authorized by law.
- (4) Issuance of licenses by reciprocity or endorsement for out-of-state applicants.
- (5) Issuance of board or committee reciprocity or endorsements for practitioners licensed, certified, or registered in Indiana who apply to another state for a license.

No fee shall be less than ten dollars (\$10) unless the fee is collected under a rule adopted by the board which sets a fee for miscellaneous expenses incurred by the board on behalf of the practitioners the board regulates.

(b) Fees established by statute shall remain in effect until replaced by a new fee adopted by rule under this section.

(c) In no case shall the fees be less than are required to pay all of the costs, both direct and indirect, of the operation of the board.

(d) For the payment of fees, a board shall accept cash, a draft, a money order, a cashier's check, and a certified or other personal check. If a board receives an uncertified personal check for the payment of a fee and if the check does not clear the bank, the

board may void the license, registration, or certificate for which the check was received.

(e) Unless designated by rule, a fee is not refundable.

(f) A board shall charge a fee of not more than ~~ten dollars~~ **(twenty-five dollars (\$25))** for the issuance of a duplicate license, registration, or certificate.

SECTION 20. IC 25-1-8-6, AS AMENDED BY SEA 490-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) As used in this section, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects, landscape architects, and registered interior designers (IC 25-4-1-2).
- (3) Indiana athletic trainers board (IC 25-5.1-2-1).
- (4) Indiana auctioneer commission (IC 25-6.1-2-1).
- (5) State board of barber examiners (IC 25-7-5-1).
- (6) State boxing commission (IC 25-9-1).
- (7) Board of chiropractic examiners (IC 25-10-1).
- (8) State board of cosmetology examiners (IC 25-8-3-1).
- (9) State board of dentistry (IC 25-14-1).
- (10) Indiana dietitians certification board (IC 25-14.5-2-1).
- (11) State board of registration for professional engineers (IC 25-31-1-3).
- (12) Board of environmental health specialists (IC 25-32-1).
- (13) State board of funeral and cemetery service (IC 25-15-9).
- (14) Indiana state board of health facility administrators (IC 25-19-1).
- (15) Committee on hearing aid dealer examiners (IC 25-20-1-1.5).
- (16) Home inspectors licensing board (IC 25-20.2-3-1).
- (17) Indiana hypnotist committee (IC 25-20.5-1-7).
- (18) State board of registration for land surveyors (IC 25-21.5-2-1).
- (19) Manufactured home installer licensing board (IC 25-23.7).
- (20) Medical licensing board of Indiana (IC 25-22.5-2).
- (21) Indiana state board of nursing (IC 25-23-1).
- (22) Occupational therapy committee (IC 25-23.5).
- (23) Indiana optometry board (IC 25-24).
- (24) Indiana board of pharmacy (IC 25-26).
- (25) Indiana physical therapy committee (IC 25-27).
- (26) Physician assistant committee (IC 25-27.5).
- (27) Indiana plumbing commission (IC 25-28.5-1-3).
- (28) Board of podiatric medicine (IC 25-29-2-1).
- (29) Private detectives licensing board (IC 25-30-1-5.1).
- (30) State psychology board (IC 25-33).
- (31) Indiana real estate commission (IC 25-34.1-2).
- (32) Real estate appraiser licensure and certification board (IC 25-34.1-8).
- (33) Respiratory care committee (IC 25-34.5).
- (34) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
- (35) Speech-language pathology and audiology board (IC 25-35.6-2).
- (36) Indiana board of veterinary medical examiners (IC 15-5-1.1).

(b) This section does not apply to a license, certificate, or registration that has been revoked or suspended.

(c) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration **and except as provided in section 8 of this chapter**, the holder of a license, certificate, or registration that was issued by the board that is three (3) years or less delinquent must be reinstated upon meeting the following requirements:

- (1) Submission of the holder's completed renewal application.
- (2) Payment of the current renewal fee established by the

board under section 2 of this chapter.

(3) Payment of a reinstatement fee established by the Indiana professional licensing agency.

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; ~~for the current renewal period; or~~

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

(d) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration **and except as provided in section 8 of this chapter**, unless a statute specifically does not allow a license, certificate, or registration to be reinstated if it has lapsed for more than three (3) years, the holder of a license, certificate, or registration that was issued by the board that is more than three (3) years delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee equal to the current initial application fee.

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; ~~for the current renewal period; or~~

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

(5) Complete such remediation and additional training as deemed appropriate by the board given the lapse of time involved.

(6) Any other requirement that is provided for in statute or rule that is not related to fees.

SECTION 21. IC 25-1-8-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) As used in this section, "board" has the meaning set forth in section 6(a) of this chapter.

(b) The licensing agency may delay reinstating a license, certificate, or registration for not more than ninety (90) days after the date the applicant applies for reinstatement of a license, certificate, or registration to permit the board to investigate information received by the licensing agency that the applicant for reinstatement may have committed an act for which the applicant may be disciplined. If the licensing agency delays reinstating a license, certificate, or registration, the licensing agency shall notify the applicant that the applicant is being investigated. Except as provided in subsection (c), the board shall do one (1) of the following before the expiration of the ninety (90) day period:

(1) Deny reinstatement of the license, certificate, or registration following a personal appearance by the applicant before the board.

(2) Reinstatement of the license, certificate, or registration upon satisfaction of all other requirements for reinstatement.

(3) Reinstatement of the license and file a complaint under IC 25-1-7.

(4) Request the office of the attorney general to conduct an investigation under subsection (d) if, following a personal appearance by the applicant before the board,

the board has good cause to believe that the applicant engaged in activity described in IC 25-1-9-4 or IC 25-1-11-5.

(5) Upon agreement of the applicant and the board and following a personal appearance by the applicant before the board, reinstate the license, certificate, or registration and place the applicant on probation status under IC 25-1-9-9 or IC 25-1-11-12.

(c) If an applicant fails to appear before the board under subsection (b), the board may take action as provided in subsection (b)(1), (b)(2), or (b)(3).

(d) If the board makes a request under subsection (b)(4), the office of the attorney general shall conduct an investigation. Upon completion of the investigation, the office of the attorney general may file a petition alleging that the applicant has engaged in activity described in IC 25-1-9-4 or IC 25-1-11-5. If the office of the attorney general files a petition, the board shall set the matter for a public hearing. If, after a public hearing, the board finds that the applicant violated IC 25-1-9-4 or IC 25-1-11-5, the board may impose sanctions under IC 25-1-9-9 or IC 25-1-11-12. The board may delay reinstating a license, certificate, or registration beyond ninety (90) days after the date the applicant files an application for reinstatement of a license, certificate, or registration until a final determination is made by the board.

(e) The license, certificate, or registration of the applicant for license reinstatement remains invalid during the ninety (90) day period unless:

- (1) the license, certificate, or registration is reinstated following a personal appearance by the applicant before the board before the end of the ninety (90) day period;
- (2) the board issues a conditional license to the practitioner that is effective until the reinstatement is denied or the license is reinstated; or
- (3) the reinstatement is denied.

If the ninety (90) day period expires without action by the board, the license, certificate, or registration shall be automatically reinstated at the end of the ninety (90) day period.

SECTION 22. IC 25-1-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A practitioner shall conduct the practitioner's practice in accordance with the standards established by the board regulating the profession in question and is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds:

- (1) a practitioner has:
 - (A) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice, **including cheating on a licensing examination;**
 - (B) engaged in fraud or material deception in the course of professional services or activities; ~~or~~
 - (C) advertised services in a false or misleading manner; **or**
 - (D) **been convicted of a crime or assessed a civil penalty involving fraudulent billing practices, including fraud under:**
 - (i) Medicaid (42 U.S.C. 1396 et seq.);
 - (ii) Medicare (42 U.S.C. 1395 et seq.);
 - (iii) the children's health insurance program under IC 12-17.6; or
 - (iv) insurance claims;
- (2) a practitioner has been convicted of a crime that:
 - (A) has a direct bearing on the practitioner's ability to continue to practice competently; **or**
 - (B) **is harmful to the public;**
- (3) a practitioner has knowingly violated any state statute or rule, or federal statute or regulation, regulating the

profession in question;

(4) a practitioner has continued to practice although the practitioner has become unfit to practice due to:

- (A) professional incompetence that:
 - (i) may include the undertaking of professional activities that the practitioner is not qualified by training or experience to undertake; and
 - (ii) does not include activities performed under IC 16-21-2-9;
- (B) failure to keep abreast of current professional theory or practice;
- (C) physical or mental disability; or
- (D) addiction to, abuse of, or severe dependency upon alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;
- (5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;
- (6) a practitioner has allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual who renders services beyond the scope of that individual's training, experience, or competence;
- (7) a practitioner has had disciplinary action taken against the practitioner or the practitioner's license to practice in any ~~other~~ state or jurisdiction on grounds similar to those under this chapter;
- (8) a practitioner has diverted:
 - (A) a legend drug (as defined in IC 16-18-2-199); or
 - (B) any other drug or device issued under a drug order (as defined in IC 16-42-19-3) for another person;
- (9) a practitioner, except as otherwise provided by law, has knowingly prescribed, sold, or administered any drug classified as a narcotic, addicting, or dangerous drug to a habitue or addict;
- (10) a practitioner has failed to comply with an order imposing a sanction under section 9 of this chapter;
- (11) a practitioner has engaged in sexual contact with a patient under the practitioner's care or has used the practitioner-patient relationship to solicit sexual contact with a patient under the practitioner's care; ~~or~~
- (12) a practitioner who is a participating provider of a health maintenance organization has knowingly collected or attempted to collect from a subscriber or enrollee of the health maintenance organization any sums that are owed by the health maintenance organization; **or**
- (13) **a practitioner has assisted another person in committing an act that would be grounds for disciplinary sanctions under this chapter.**
- (b) A practitioner who provides health care services to the practitioner's spouse is not subject to disciplinary action under subsection (a)(11).
- (c) A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action under subsection (a)(7).

SECTION 23. IC 25-1-9-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) The board may refuse to issue a license or may issue a probationary license to an applicant for licensure if:

- (1) the applicant has been disciplined by a licensing entity of ~~another any~~ state or jurisdiction, or has committed an act that would have subjected the applicant to the disciplinary process had the applicant been licensed in Indiana when the act occurred; and
 - (2) the violation for which the applicant was, or could have been, disciplined has a direct bearing on the applicant's ability to competently practice in Indiana.
- (b) **The board may:**
- (1) **refuse to issue a license; or**
 - (2) **issue a probationary license;**

to an applicant for licensure if the applicant practiced without a license in violation of the law.

~~(b)~~ **(c)** Whenever the board issues a probationary license, the board may impose one (1) or more of the following conditions:

- (1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.
- (2) Limit practice to those areas prescribed by the board.
- (3) Continue or renew professional education.
- (4) Engage in community restitution or service without compensation for a number of hours specified by the board.
- (5) Perform or refrain from performing an act that the board considers appropriate to the public interest or to the rehabilitation or treatment of the applicant.

~~(c)~~ **(d)** The board shall remove any limitations placed on a probationary license under this section if the board finds after a hearing that the deficiency that required disciplinary action has been remedied.

SECTION 24. IC 25-1-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) A practitioner shall comply with the standards established by the board regulating a profession. A practitioner is subject to the exercise of the disciplinary sanctions under section 12 of this chapter if, after a hearing, the board finds that:

- (1) a practitioner has:
 - (A) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice, including cheating on a licensing examination;
 - (B) engaged in fraud or material deception in the course of professional services or activities; ~~or~~
 - (C) advertised services or goods in a false or misleading manner; ~~or~~
 - (D) been convicted of a crime or assessed a civil penalty involving fraudulent billing practices;**
- (2) a practitioner has been convicted of a crime that:
 - (A) has a direct bearing on the practitioner's ability to continue to practice competently; or**
 - (B) is harmful to the public;**
- (3) a practitioner has knowingly violated a state statute or rule or federal statute or regulation regulating the profession for which the practitioner is licensed;
- (4) a practitioner has continued to practice although the practitioner has become unfit to practice due to:
 - (A) professional incompetence, **including undertaking professional activities that the practitioner is not qualified by training or experience to undertake;**
 - (B) failure to keep abreast of current professional theory or practice;
 - (C) physical or mental disability; or
 - (D) addiction to, abuse of, or severe dependency on alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;
- (5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;
- (6) a practitioner has allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual or business who renders services beyond the scope of that individual's or business's training, experience, or competence;
- (7) a practitioner has had disciplinary action taken against the practitioner or the practitioner's license to practice in ~~another~~ **any** state or jurisdiction on grounds similar to those under this chapter;
- (8) a practitioner has assisted another person in committing an act that would constitute a ground for disciplinary sanction under this chapter; ~~or~~
- (9) a practitioner has allowed a license issued by a board to be:
 - (A) used by another person; or

(B) displayed to the public when the license has expired, is inactive, or has been revoked or suspended; ~~or~~

(10) a practitioner has failed to comply with an order imposing a sanction under section 12 of this chapter.

(b) If an applicant or a practitioner has engaged in or knowingly cooperated in fraud or material deception to obtain a license to practice, including cheating on the licensing examination, the board may rescind the license if it has been granted, void the examination or other fraudulent or deceptive material, and prohibit the applicant from reapplying for the license for a length of time established by the board. An applicant who is aggrieved by a decision of the board under this section is entitled to hearing and appeal rights under the Indiana administrative rules and procedures act (IC 4-21.5).

~~(c) The board may deny licensure to an applicant who has had disciplinary action taken against the applicant or the applicant's license to practice in another state or jurisdiction or who has practiced without a license in violation of the law.~~

~~(d)~~ **(c)** A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action under subsection (a)(7). ~~or subsection (c).~~

SECTION 25. IC 25-1-11-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) The board may summarily suspend a practitioner's license for ninety (90) days before a final adjudication or during the appeals process if the board finds that a practitioner represents a clear and immediate danger to the public's health, safety, or property if the practitioner is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the board, and each renewal may be for not more than ninety (90) days.

(b) The board may summarily suspend the license of a real estate appraiser for ninety (90) days before a final adjudication or during the appeals process if the board finds that the licensed real estate appraiser has engaged in material and intentional misrepresentations or omissions in the preparation of at least three (3) written appraisal reports that were submitted by a person to obtain a loan. The summary suspension may be renewed upon a hearing before the board. Each renewal of a summary suspension may not be for more than ninety (90) days.

(c) Before the board may summarily suspend a license under this section, the consumer protection division of the attorney general's office shall make a reasonable attempt to notify a practitioner of a hearing by the board to suspend a practitioner's license and of information regarding the allegation against the practitioner. The consumer protection division of the attorney general's office shall also notify the practitioner that the practitioner may provide a written or an oral statement to the board on the practitioner's behalf before the board issues an order for summary suspension. A reasonable attempt to notify the practitioner is made if the consumer protection division of the attorney general's office attempts to notify the practitioner by telephone or facsimile at the last telephone number or facsimile number of the practitioner on file with the board.

SECTION 26. IC 25-1-11-19, AS ADDED BY P.L.194-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) The board may refuse to issue a license or may issue a probationary license to an applicant for licensure if:

- (1) the applicant has:
 - (A) been disciplined by a licensing entity of another state or jurisdiction; or
 - (B) committed an act that would have subjected the applicant to the disciplinary process if the applicant had been licensed in Indiana when the act occurred; and
- (2) the violation for which the applicant was or could have been disciplined has a bearing on the applicant's ability to competently perform or practice the profession in Indiana.

(b) The board may:

- (1) refuse to issue a license; or**
- (2) issue a probationary license;**

to an applicant for licensure if the applicant practiced without a license in violation of the law.

~~(b)~~ **(c)** Whenever the board issues a probationary license, the board may require a licensee to do any of the following:

- (1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.
- (2) Limit practice to the areas prescribed by the board.
- (3) Continue or renew professional education requirements.
- (4) Engage in community restitution or service without compensation for the number of hours specified by the board.
- (5) Perform or refrain from performing an act that the board considers appropriate to the public interest or to the rehabilitation or treatment of the applicant.

~~(c)~~ **(d)** The board shall remove any limitations placed on a probationary license under this section if the board finds after a public hearing that the deficiency that required disciplinary action has been remedied.

SECTION 27. IC 25-2.1-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. "Quality review" means a study, an appraisal, or a review of at least one (1) aspect of the professional work of:

- (1) an individual who; or**
- (2) a firm in the practice of accountancy that;**

attests or issues compilation reports, by at least one (1) individual who holds a certificate **from any state and possesses qualifications that meet the applicable substantial equivalency standards** and who is independent of the individual or firm being reviewed.

SECTION 28. IC 25-7-7-3, AS AMENDED BY P.L.157-2006, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. The application described in section 2 of this chapter must state that:

- (1) the proposed school will require students to successfully complete at least one thousand five hundred (1,500) hours of course work as a requirement for graduation;
- (2) not more than ~~eight (8)~~ **ten (10)** hours of course work may be taken by a student during one (1) day;
- (3) the course work will provide instruction to students in all theories and practical applications of barbering, including:

- (A) the scientific fundamentals for barbering, hygiene, and bacteriology;
- (B) the histology of hair, skin, muscles, and nerves;
- (C) the structure of the head, face, and neck;
- (D) elementary chemistry relating to sterilization and antiseptics;
- (E) cutting, shaving, arranging, dressing, coloring, bleaching, tinting, and permanent waving of the hair; and
- (F) at least ten (10) hours of study on skin and diseases of the skin under a certified dermatologist;

- (4) the school will provide one (1) instructor for each group of twenty (20) or fewer students;
- (5) the school will be operated under the personal supervision of a licensed barber instructor;
- (6) the applicant has obtained:

- (A) a building permit;
- (B) a certificate of occupancy; or
- (C) any other planning approval required under IC 22-15-3 and IC 36-7-4;

required to operate the school;

- (7) the school, if located in the same building as a residence, will:

- (A) be separated from the residence by a substantial

floor to ceiling partition; and

- (B) have a separate entrance;

(8) as a requirement for graduation, the proposed school must:

- (A) administer; and

- (B) require the student to pass;

a final practical demonstration examination of the acts permitted by the license; and

- (9) the applicant has paid the fee set forth in IC 25-7-11-2.

SECTION 29. IC 25-8-2-15.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15.5. "Mobile salon" means either of the following:

- (1) A self-contained facility that may be moved, towed, or transported from one (1) location to another and in which cosmetology, electrology, esthetics, or manicuring is practiced.**

- (2) A business in which cosmetology, electrology, esthetics, or manicuring equipment is transported to and used on a temporary basis at a location other than a selected salon site, including:**

- (A) other cosmetology, electrology, esthetic, or manicuring salons;**

- (B) clients' homes; and**

- (C) nursing homes.**

SECTION 30. IC 25-8-3-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. **(a)** The board shall adopt rules under IC 4-22-2 to:

- (1) prescribe sanitary requirements for:

- (A) cosmetology salons;
- (B) electrology salons;
- (C) esthetic salons;
- (D) manicuring salons; and
- (E) cosmetology schools;

- (2) establish standards for the practice of cosmetology and the operation of:

- (A) cosmetology salons;
- (B) electrology salons;
- (C) esthetic salons;
- (D) manicuring salons; and
- (E) cosmetology schools;

- (3) implement the licensing system under this article and provide for a staggered renewal system for licenses; and
- (4) establish requirements for cosmetology school uniforms for students and instructors.

(b) The board may adopt rules under IC 4-22-2 to establish the following for the practice of cosmetology, electrology, esthetics, or manicuring in a mobile salon:

- (1) Sanitation standards.**

- (2) Safety requirements.**

- (3) Permanent address requirements at which the following are located:**

- (A) Records of appointments.**

- (B) License numbers of employees.**

- (C) If applicable, the vehicle identification number of the license holder's self-contained facility.**

- (4) Enforcement actions to ensure compliance with the requirements under this article and all local laws and ordinances.**

SECTION 31. IC 25-8-4-21, AS AMENDED BY P.L.157-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. **(a)** Except as provided in IC 25-8-9-11, the board may, upon application, reinstate a license under this chapter that has expired if the person holding the license:

- (1) pays renewal fees established by the board under IC 25-1-8-2;

- (2) pays the license reinstatement fee established under IC 25-1-8-6; and

- (3) complies with all **of the** requirements ~~imposed by this~~

article on an applicant for an initial license to perform the acts authorized by the license being reinstated; other than receiving a satisfactory grade (as defined in section 9 of this chapter) on an examination prescribed by the board established under IC 25-1-8-6.

(b) Except as provided in subsection (e) and (f), the board may not reinstate a license issued under this article if the person holding the license does not apply for reinstatement within three (3) years after the expiration date of the license, unless the person holding the license;

(1) receives a satisfactory grade (as described in section 9 of this chapter) on an examination prescribed by the board;

(2) pays the examination fee set forth in IC 25-1-8-2;

(3) pays the renewal fees established by the board under IC 25-1-8-2; and

(4) pays the reinstatement fee established under IC 25-1-8-6.

(c) If a person does not receive a satisfactory grade on the examination described in subsection (b)(1), the person may repeat the examination subject to the rules governing the examination as adopted by the board.

(d) If a person does not receive a satisfactory grade on a repeat examination as provided in subsection (c), the board may:

- (1) permit the person to take the examination again;
- (2) require the person to complete remediation and additional training as required by the board before the person is permitted to take the examination again; or
- (3) refuse to permit the person to take the examination again and deny the application for reinstatement of the license.

(e) The board may not reinstate:

(1) a cosmetology salon license issued under IC 25-8-7;

(2) an electrology salon license issued under IC 25-8-7.2;

(3) an esthetic salon license issued under IC 25-8-12.6; or

(4) a manicurist salon license issued under IC 25-8-7.1;

unless the license holder submits an application for reinstatement of the license not later than three (3) years after the date the license expires.

(f) The board may not reinstate a cosmetology school license issued under IC 25-8-5 unless the license holder submits an application for reinstatement of the license not later than three (3) years after the date the license expires.

SECTION 32. IC 25-8-4-27, AS AMENDED BY P.L.194-2005, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. If a person holding a license described in section 22(b) 21(e) or 21(f) of this chapter does not comply with the reinstatement application filing requirements set forth in that section, that person may:

(1) file an application for a new license to operate:

(A) a cosmetology salon;

(B) an electrology salon;

(C) an esthetic salon;

(D) a manicurist salon; or

(E) a cosmetology school;

under this article; and

(2) pay the reinstatement fee set forth in:

(A) IC 25-8-13-3; or

(B) IC 25-8-13-5(b).

SECTION 33. IC 25-8-5-3, AS AMENDED BY P.L.157-2006, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. The application described in section 2 of this chapter must state that:

- (1) as a requirement for graduation, the proposed school will require its students to successfully complete at least the one thousand five hundred (1,500) hours of course work required to be eligible to sit for the licensing examination;

(2) no more than eight (8) ten (10) hours of course work may be taken by a student during one (1) day;

(3) the course work will instruct the students in all theories and practical application of the students' specific course of study;

(4) the school will provide one (1) instructor for each twenty (20) students or any fraction of that number;

(5) the school will be operated under the personal supervision of a licensed cosmetologist instructor;

(6) the person has obtained any building permit, certificate of occupancy, or other planning approval required under IC 22-15-3 and IC 36-7-4 to operate the school;

(7) the school, if located in the same building as a residence, will:

(A) be separated from the residence by a substantial floor to ceiling partition; and

(B) have a separate entry;

(8) as a requirement for graduation, the proposed school must:

(A) administer; and

(B) require the student to pass;

a final practical demonstration examination of the acts permitted by the license; and

(9) the applicant has paid the fee set forth in IC 25-8-13-3.

SECTION 34. IC 25-8-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. The board may license a person to be a ~~cosmetology~~ beauty culture instructor.

SECTION 35. IC 25-8-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. A person must file a verified application for a ~~cosmetology~~ beauty culture instructor license with the board. ~~to obtain that license.~~ The application must be made on a form prescribed by the board.

SECTION 36. IC 25-8-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. The application described in section 2 of this chapter must state that the applicant:

(1) is at least eighteen (18) years of age;

(2) has graduated from high school or received the equivalent of a high school education;

(3) holds a cosmetologist, ~~an electrologist, a manicurist, or an esthetician~~ license issued under this article;

(4) has actively practiced cosmetology for at least six (6) months in a cosmetology salon and subsequently successfully completed at least six (6) months of instruction in theory and practice of instructor training as a student in a cosmetology school;

(4) has completed the education and experience requirements subject to the rules adopted by the board;

(5) has not committed an act for which the applicant could be disciplined under IC 25-8-14;

(6) has received a satisfactory grade (as ~~defined~~ described in IC 25-8-4-9) on an examination for instructor license applicants prescribed by the board; and

(7) has paid the fee set forth in IC 25-8-13-4 for the issuance of a license under this chapter.

SECTION 37. IC 25-8-6-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. A person who obtains a license as a beauty culture instructor may provide instruction in the following:

(1) Cosmetology, if the person:

(A) holds a cosmetologist license under IC 25-8-9; and

(B) has actively practiced cosmetology for at least six (6) months in a cosmetology salon and subsequently successfully completed at least six (6) months of instruction in theory and practice of instructor training as a student in a cosmetology school.

(2) **Electrology, if the person holds an electrologist license under IC 25-8-10.**

(3) **Manicuring, if the person holds a manicurist license under IC 25-8-11.**

(4) **Esthetics, if the person holds an esthetician license under IC 25-8-12.5.**

SECTION 38. IC 25-8-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. A person who wishes to obtain a cosmetology salon license must:

(1) **do one (1) or more of the following:**

(A) Select a site for the salon which, if located in the same building as a residence:

~~(A)~~ (i) is separated from the residence by a substantial floor to ceiling partition; and

~~(B)~~ (ii) has a separate entry.

(B) Meet the requirements for a mobile salon as established by the board under IC 25-8-3-23(b);

(2) **if applicable**, obtain any building permit, certificate of occupancy, or other approval action required under IC 22-15-3 and IC 36-7-4 to operate the cosmetology salon;

(3) install the furnishings, **if applicable**, and obtain the salon equipment required under rules adopted by the board; and

(4) submit a verified statement on a form prescribed by the board that the cosmetology salon will be under the personal supervision of a person who has at least six (6) months active experience as a cosmetologist under IC 25-8-9 before the application was submitted under this chapter.

SECTION 39. IC 25-8-7.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. A person who desires to obtain a manicurist salon license must:

(1) **do one (1) or more of the following:**

~~(A)~~ (A) Select a site for the salon that, if located in the same building as a residence:

~~(A)~~ (i) is separated from the residence by a substantial floor to ceiling partition; and

~~(B)~~ (ii) has a separate entry.

(B) Meet the requirements for a mobile salon as established by the board under IC 25-8-3-23(b);

(2) **if applicable**, obtain:

(A) a building permit;

(B) a certificate of occupancy; or

(C) other approval action required under IC 22-15-3 and IC 36-7-4;

to operate the manicurist salon;

(3) install the furnishings, **if applicable**, and obtain the salon equipment required under rules adopted by the board; **and**

(4) submit a verified statement on a form prescribed by the board that the manicurist salon will be under the personal supervision of a person who has at least six (6) months active experience as a:

(A) manicurist under IC 25-8-11; or

(B) cosmetologist under IC 25-8-9;

before the application was submitted under this chapter.

SECTION 40. IC 25-8-7.2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. A person who desires to obtain an electrology salon license must:

(1) **do one (1) or more of the following:**

~~(A)~~ (A) Select a site for the salon that, if located in the same building as a residence:

~~(A)~~ (i) is separated from the residence by a substantial floor to ceiling partition; and

~~(B)~~ (ii) has a separate entry.

(B) Meet the requirements for a mobile salon as established by the board under IC 25-8-3-23(b);

(2) **if applicable**, obtain:

(A) a building permit;

(B) a certificate of occupancy; or

(C) other approval action required under IC 22-15-3 and IC 36-7-4;

to operate the manicurist salon;

(3) install the furnishings, **if applicable**, and obtain the salon equipment required under rules adopted by the board; **and**

(4) submit a verified statement on a form prescribed by the board that the electrology salon will be under the personal supervision of a person who has at least six (6) months active experience as an electrologist under IC 25-8-10 before the application was submitted under this chapter.

SECTION 41. IC 25-8-9-7, AS AMENDED BY P.L.157-2006, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. The board may issue a temporary work permit to practice cosmetology, electrology, esthetics, **or** manicuring. ~~or the instruction of cosmetology, esthetics, or electrology.~~

SECTION 42. IC 25-8-9-8, AS AMENDED BY P.L.157-2006, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. A person must file a verified application for a temporary:

(1) cosmetologist work permit;

(2) electrologist work permit;

(3) esthetician work permit; **or**

(4) manicurist work permit;

~~(5) cosmetology instructor work permit;~~

~~(6) esthetics instructor work permit; or~~

~~(7) electrology instructor work permit;~~

with the board on a form prescribed by the board to obtain that work permit.

SECTION 43. IC 25-8-9-9, AS AMENDED BY P.L.157-2006, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) The temporary cosmetologist work permit application described in section 8 of this chapter must state that the applicant:

(1) will practice cosmetology under the supervision of a cosmetologist; and

(2) has filed an application under:

(A) section 2 of this chapter, but has not taken the examination described by section 3(4) of this chapter; or

(B) IC 25-8-4-2 and is awaiting a board determination.

(b) The temporary electrologist work permit application described in section 8 of this chapter must state that the applicant:

(1) will practice electrology under the supervision of an electrologist; and

(2) has filed an application under:

(A) IC 25-8-10-2, but has not taken the examination described in IC 25-8-10-3(3); or

(B) IC 25-8-4-2 and is awaiting a board determination.

(c) The temporary esthetician work permit application described in section 8 of this chapter must state that the applicant:

(1) will practice esthetics under the supervision of an esthetician; and

(2) has filed an application under:

(A) IC 25-8-12.5-3, but has not taken the examination described in IC 25-8-12.5-4(4); or

(B) IC 25-8-4-2 and is awaiting a board determination.

(d) The temporary manicurist work permit application described in section 8 of this chapter must state that the applicant:

(1) will practice manicuring under the supervision of a cosmetologist or manicurist; and

(2) has filed an application under:

(A) IC 25-8-11-3, but has not taken the examination described in IC 25-8-11-4(4); or

(B) IC 25-8-4-2 and is awaiting a board determination.

(e) The temporary cosmetology instructor work permit application described in section 8 of this chapter must state that the applicant:

- (1) will practice the instruction of cosmetology under the supervision of a cosmetology instructor; and
- (2) has filed an application under:

(A) IC 25-8-6-2, but has not taken the examination described in IC 25-8-6-3(6); or

(B) IC 25-8-4-2 and is awaiting a board determination.

(f) The temporary esthetics instructor work permit application described in section 8 of this chapter must state that the applicant:

- (1) will practice the instruction of esthetics under the supervision of a cosmetology or an esthetics instructor; and
- (2) has filed an application under:

(A) IC 25-8-6-1-2, but has not taken the examination described in IC 25-8-6-1-3(6); or

(B) IC 25-8-4-5 and is awaiting a board determination described in IC 25-8-4-2.

(g) The temporary electrolysis instructor work permit application described in section 8 of this chapter must state that the applicant:

- (1) will practice the instruction of electrolysis under the supervision of an electrolysis instructor; and
- (2) has filed an application under:

(A) IC 25-8-6-2-2, but has not taken the examination described in IC 25-8-6-2-3(6); or

(B) IC 25-8-4-2 and is awaiting a board determination.

SECTION 44. IC 25-8-15.4-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 9.5. The board may, upon application, reinstate a license under this chapter that has expired if the person holding the license:**

- (1) pays the current renewal fee established by the board under IC 25-1-8-2;
- (2) pays the license reinstatement fee established under IC 25-1-8-6; and
- (3) complies with all requirements established under this article for an applicant for an initial license.

SECTION 45. IC 25-9-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The Indiana professional licensing agency may appoint and remove deputies for use by the commission. The commission shall, when the commission considers it advisable, direct a deputy to be present at any place where sparring or boxing matches ~~semiprofessional elimination contests~~, or exhibitions are to be held under this chapter. The deputies shall ascertain the exact conditions surrounding the match ~~contest~~, or exhibition and make a written report of the conditions in the manner and form prescribed by the commission.

(b) The licensing agency may appoint and remove a secretary for the commission, who shall:

- (1) keep a full and true record of all the commission's proceedings;
- (2) preserve at its general office all the commission's books, documents, and papers;
- (3) prepare for service notices and other papers as may be required by the commission; and
- (4) perform other duties as the licensing agency may prescribe.

The licensing agency may employ only such clerical employees as may be actually necessary and fix their salaries as provided by law.

(c) Each commissioner shall be reimbursed for all actual and necessary traveling expenses and disbursements incurred by them in the discharge of their official duties. All reimbursements for traveling expenses shall be in accordance with travel policies and procedures established by the Indiana department of administration and the budget agency. All expenses incurred in

the administration of this chapter shall be paid from the general fund upon appropriation being made for the expenses.

SECTION 46. IC 25-9-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) Boxing and sparring matches or exhibitions for prizes or purses may be held in Indiana.

(b) The commission:

- (1) has the sole direction, management, control, and jurisdiction over all boxing and sparring matches ~~semiprofessional elimination contests~~, or exhibitions to be conducted, held, or given in Indiana; and
- (2) may issue licenses for those matches ~~contests~~, or exhibitions.

(c) A boxing or sparring match or an exhibition that is:

- (1) conducted by any school, college, or university within Indiana;
- (2) sanctioned by United States Amateur Boxing, Inc.; or
- (3) without a prize or purse;

shall not be subject to the provisions of this chapter requiring a license. The term "school, college, or university" does not include a school or other institution for the principal purpose of furnishing instruction in boxing, or other athletics.

(d) No boxing or sparring match, or exhibition, except as provided in this article, shall be held or conducted within Indiana except under a license and permit issued by the state boxing commission in accordance with the provisions of this chapter and the rules adopted under this chapter.

SECTION 47. IC 25-9-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The commission may:

- (1) cause to be issued by the Indiana professional licensing agency under the name and seal of the state boxing commission, an annual license in writing for holding boxing or sparring matches ~~semiprofessional elimination contests~~, or exhibitions to any person who is qualified under this chapter; and
- (2) adopt rules to establish the qualifications of the applicants.

(b) In addition to the general license, a person must, before conducting any particular boxing or sparring match ~~semiprofessional elimination contest~~, or exhibition where one (1) or more contests are to be held, obtain a permit from the state boxing commission.

(c) Annual licenses may be revoked by the commission upon hearing and proof that any holder of an annual license has violated this chapter or any rule or order of the commission.

(d) A person who conducts a boxing or sparring match ~~semiprofessional elimination contest~~, or exhibition without first obtaining a license or permit commits a Class B misdemeanor.

SECTION 48. IC 25-9-1-7, AS AMENDED BY P.L.120-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) Applications for licenses or permits to conduct or participate in, either directly or indirectly, a boxing or sparring match ~~semiprofessional elimination contest~~, or exhibition shall be:

- (1) made in writing upon forms prescribed by the state boxing commission and shall be addressed to and filed with the Indiana professional licensing agency; and
- (2) verified by the applicant, if an individual, or by some officer of the club, corporation, or association in whose behalf the application is made.

(b) The application for a permit to conduct a particular boxing or sparring match ~~semiprofessional elimination contest~~, or exhibition, shall, among other things, state:

- (1) the time and exact place at which the boxing or sparring match ~~semiprofessional elimination contest~~, or exhibition is proposed to be held;
- (2) the names of the contestants who will participate and their seconds;

- (3) the seating capacity of the buildings or the hall in which such exhibition is proposed to be held;
- (4) the admission charge which is proposed to be made;
- (5) the amount of the compensation percentage of gate receipts which is proposed to be paid to each of the participants;
- (6) the name and address of the person making the application;
- (7) the names and addresses of all the officers if the person is a club, a corporation, or an association; and
- (8) the record of each contestant from a source approved by the commission.

(c) The commission shall cause to be kept by the licensing agency proper records of the names and addresses of all persons receiving permits and licenses.

SECTION 49. IC 25-9-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. All buildings or structures used, or in any way to be used for the purpose of holding or giving therein boxing or sparring matches ~~semiprofessional elimination contests~~, or exhibitions, shall be properly ventilated and provided with fire exits and fire escapes, if need be, and in all manner shall conform to the laws, ordinances, and regulations pertaining to buildings in the city or town where situated.

SECTION 50. IC 25-9-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) A person shall not:

- (1) permit any person under the age of eighteen (18) years to participate in any boxing or sparring match ~~semiprofessional elimination contest~~, or exhibition;
- (2) permit any gambling on the result of, or on any contingency in connection with, any boxing or sparring match ~~semiprofessional elimination contest~~, or exhibition conducted by it; or
- (3) participate in or permit any sham or collusive boxing or sparring match ~~semiprofessional elimination contest~~, or exhibition.

(b) A person who violates this section shall, in addition to any criminal penalty, have the person's license or permit revoked and be rendered ineligible for a license or permit at any future time.

SECTION 51. IC 25-9-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. (a) A person shall not:

- (1) participate in any sham or collusive boxing or sparring match ~~semiprofessional elimination contest~~, or exhibition where the match or exhibition is conducted by a licensed person; or
- (2) being under the age of eighteen (18), participate in any boxing or sparring match ~~semiprofessional elimination contest~~, or exhibition.

(b) If a person violating this section is a licensed contestant in this state, the person shall for the first offense, in addition to the fine, suffer a revocation of the person's license or permit, and for a second offense be forever barred from receiving any license or permit or participating in any boxing or sparring match or exhibition in Indiana.

(c) A person who gambles on the result of, or on any contingency in connection with, any boxing or sparring match ~~semiprofessional elimination contest~~, or exhibition and is convicted under IC 35-45-5 shall, in addition to any criminal penalty imposed, be penalized as provided in subsection (b).

SECTION 52. IC 25-9-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) No contestant shall be permitted to participate in any boxing or sparring match ~~semiprofessional elimination contest~~, or exhibition unless duly registered and licensed with the state boxing commission, which license must be renewed biennially. The license fee and the renewal fee shall not be less than five dollars (\$5) paid at the time of the application for the license or

renewal.

(b) Any person who desires to be registered and licensed as a contestant shall file an application in writing with the Indiana professional licensing agency, which application shall, among other things, state:

- (1) the correct name of the applicant;
- (2) the date and place of the applicant's birth;
- (3) the place of the applicant's residence; and
- (4) the applicant's employment, business, or occupation, if any.

The application must be verified under oath of the applicant. Application for renewal license shall be in similar form.

(c) No assumed or ring names shall be used in any application nor in any advertisement of any contest, unless the ring or assumed name has been registered with the commission with the correct name of the applicant.

(d) Each application for license by a contestant or for a license renewal must be accompanied by the certificate of a physician residing within Indiana, who has been licensed as provided in this article, and has practiced in Indiana for not less than five (5) years, certifying that the physician has made a thorough physical examination of the applicant, and that the applicant is physically fit and qualified to participate in boxing or sparring matches or exhibitions.

SECTION 53. IC 25-9-1-20.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20.5. The commission may declare any person who has been convicted of an offense under IC 35-48 ineligible to participate in any boxing or sparring match ~~semiprofessional elimination contest~~, or exhibition, or any other activity or event regulated by the commission, notwithstanding that the person may hold a valid license issued by the commission. The period of ineligibility shall be for not less than six (6) months nor more than three (3) years, as determined by the commission. If any such person shall be declared ineligible, the commission shall suspend such convicted person and declare ~~him~~ **the person** ineligible to participate in any boxing or sparring match or exhibition, or any other activity or event regulated by the commission, as soon as it discovers the conviction, but the period of ineligibility shall commence from the actual date of the conviction. During the period of ineligibility, the suspended person may reapply to the commission for a license in the manner provided, and the commission may rescind the prior order of suspension.

SECTION 54. IC 25-9-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. (a) Any license provided for under this chapter may be revoked or suspended by the commission for reasons deemed sufficient under this chapter and under IC 25-1-11.

(b) If a person displays to the public credentials issued by the commission that:

- (1) have been revoked or suspended under this section or under sections 16, 17, and 20.5 of this chapter; or
- (2) have expired;

the commission may act under this section, or the commission may declare the person ineligible for a period to be determined by the commission to participate in any boxing or sparring match, ~~semiprofessional elimination contest~~, exhibition, or other activity regulated by the commission.

SECTION 55. IC 25-9-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. (a) Every person, club, corporation, firm, or association which may conduct any match or exhibition under this chapter shall, within twenty-four (24) hours after the termination thereof:

- (1) furnish to the Indiana professional licensing agency by mail, a written report duly verified by that person or, if a club, corporation, firm, or association, by one (1) of its officers, showing the amount of the gross proceeds for the match or exhibition, and other related matters as the commission may prescribe; and

(2) pay a tax of five percent (5%) of the price of admission collected from the sale of each admission ticket to the match or exhibition, which price shall be a separate and distinct charge and shall not include any tax imposed on and collected on account of the sale of any such ticket. Money derived from such state tax shall be deposited in the state general fund.

(b) Before any license shall be granted for any boxing or sparring match ~~semiprofessional elimination contest~~, or exhibition in this state, a bond or other instrument that provides financial recourse must be provided to the state boxing commission. The instrument must be:

- (1) in an amount determined by the commission;
- (2) approved as to form and sufficiency of the sureties thereon by the commission;
- (3) payable to the state of Indiana; and
- (4) conditioned for the payment of the tax imposed, the officials and contestants, and compliance with this chapter and the valid rules of the commission.

SECTION 56. IC 25-9-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24. The commission may appoint official representatives, designated as inspectors, each of whom shall receive from the commission a card authorizing ~~him~~ **the official representative** to act as an inspector wherever the commission may designate ~~him~~ **the official representative** to act. One (1) inspector or deputy shall be present at all boxing or sparring matches ~~semiprofessional elimination contests~~, or exhibitions, and see that the rules of the commission and the provisions of this chapter are strictly observed, and shall also be present at the counting up of the gross receipts, and shall immediately mail to the commission the final box-office statement received by him from the person or officers of the club, corporation, or association conducting the match ~~contest~~, or exhibition.

SECTION 57. IC 25-9-1-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. All tickets of admission to any boxing or sparring match ~~semiprofessional elimination contest~~, or exhibition shall clearly show their purchase price, and no such tickets shall be sold for more than the price printed on the tickets. It shall be unlawful for any person, club, corporation, or association to admit to such contest a number of people greater than the seating capacity of the place where such contest is held.

SECTION 58. IC 25-21.5-8-7, AS AMENDED BY P.L.194-2005, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The board may adopt rules requiring a land surveyor to obtain continuing education for renewal of a certificate under this chapter.

(b) If the board adopts rules under this section, the rules must ~~do the following~~:

- (1) ~~establish procedures for approving an organization that provides continuing education.~~
- (2) ~~Require an organization that provides an approved continuing education program to supply the following information to the board not more than thirty (30) days after the course is presented:~~
 - (A) ~~An alphabetical list of all land surveyors who attended the course.~~
 - (B) ~~A certified statement of the hours to be credited to each land surveyor.~~

(c) If the board adopts rules under this section, the board may adopt rules to do the following:

- (1) Allow private organizations to implement the continuing education requirement.
- (2) Establish an inactive certificate of registration. If the board adopts rules establishing an inactive certificate, the board must adopt rules that:
 - (A) do not require the holder of an inactive certificate to obtain continuing education;

(B) prohibit the holder of an inactive certificate from practicing land surveying;

(C) establish requirements for reactivation of an inactive certificate; and

(D) do not require the holder of an inactive certificate to pay the registration and renewal fees required under IC 25-21.5-7-5.

SECTION 59. IC 25-23.5-0.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 0.5. Applicability

Sec. 1. This article does not apply to the practice of an occupation or a profession for which an individual is licensed, certified, or registered in Indiana by a state agency if the individual is practicing within the scope of the individual's license, certificate, or registration.

Sec. 2. The provisions of this article that require a license to engage in the practice of occupational therapy do not apply to the following:

- (1) The practice of occupational therapy by an individual who is practicing occupational therapy as part of a supervised course of study in an educational program approved by the board.
- (2) The practice of occupational therapy by an occupational therapy assistant who is:
 - (A) certified under this article; and
 - (B) acting under the supervision of an occupational therapist.
- (3) The practice of occupational therapy by an occupational therapy aide under the direct supervision of:

- (A) an occupational therapist; or
- (B) an occupational therapy assistant.

Sec. 3. An occupational therapy assistant shall:

- (1) be certified under this article; and
- (2) practice under the supervision of an occupational therapist who is licensed under this article.

SECTION 60. IC 25-23.5-1-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3.5. **"Examination" refers to a nationally recognized test for occupational therapists that has been approved by the board under IC 25-23.5-5-4.5.**

SECTION 61. IC 25-23.5-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. **"Practice of occupational therapy"** means the functional assessment of learning and performance skills and the analysis, selection, and adaptation of exercises or equipment for a person whose abilities to perform the requirements of daily living are threatened or impaired by physical injury or disease, mental illness, a developmental deficit, the aging process, or a learning disability. The term consists primarily of the following functions:

- (1) Planning and directing exercises and programs to improve sensory-integration and motor functioning at a level of performance neurologically appropriate for a person's stage of development.
- (2) Analyzing, selecting, and adapting functional exercises to achieve and maintain a person's optimal functioning in daily living tasks and to prevent further disability.

SECTION 62. IC 25-23.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. The committee consists of five (5) members appointed by the governor for terms of three (3) years. The committee must include the following:

- (1) At least two (2) occupational therapists who:
 - (A) are residents of Indiana;
 - (B) have at least three (3) years experience as occupational therapists; and
 - (C) are ~~certified~~ **licensed** under this article.
- (2) At least one (1) physician licensed under IC 25-22.5

who is familiar with **the practice of** occupational therapy.

(3) At least one (1) person who:

(A) is a resident of Indiana; and

(B) is not associated with occupational therapy in any way other than as a consumer.

SECTION 63. IC 25-23.5-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. The committee shall:

(1) consider the qualifications of persons who apply for ~~certificates~~ **licenses** under this article;

(2) provide for examinations required under this article;

(3) ~~certify~~ **license** qualified persons;

(4) propose rules to the board concerning the:

(A) competent practice of occupational therapy;

(B) **continuing competency requirement for the renewal of a license for an occupational therapist and renewal of a certificate for an occupational therapy assistant; and the**

(C) administration of this article; and

(5) recommend to the board the amounts of fees required under this article.

SECTION 64. IC 25-23.5-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) After considering the committee's proposed rules, the board shall adopt rules under IC 4-22-2 establishing standards for:

(1) the competent practice of occupational therapy;

(2) the renewal of ~~certificates~~ **licenses or certificates** issued under this article; and

(3) standards for the administration of this article.

(b) After considering the committee's recommendations for fees, the board shall establish fees under IC 25-1-8-2.

SECTION 65. IC 25-23.5-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. A person may not:

(1) ~~profess to be practice as~~ **profess to be practice as** an occupational therapist;

(2) ~~profess to be practice as~~ **profess to be practice as** an occupational therapy assistant;

(3) use the title "occupational therapist";

(4) use the title "occupational therapy assistant"; or

(5) ~~use the initials "O.T.", "O.T.A.", "O.T.R.", or "C.O.T.A." or any other words, letters, abbreviations, or insignia indicating or implying that the person is an occupational therapist or occupational therapy assistant certified under this article;~~

(5) **engage in the practice of occupational therapy;**

unless the person is ~~certified licensed or certified~~ **licensed** under this article.

SECTION 66. IC 25-23.5-3-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.5. (a) Except as provided in subsection (b), an occupational therapist may not provide occupational therapy services to a person until the person has been referred to the occupational therapist by a physician licensed under IC 25-22.5, a podiatrist licensed under IC 25-29, an advanced practice nurse licensed under IC 25-23, a psychologist licensed under IC 25-33, or a chiropractor licensed under IC 25-10.

(b) An occupational therapist may provide the following services without a referral from a physician licensed under IC 25-22.5, a podiatrist licensed under IC 25-29, an advanced practice nurse licensed under IC 25-23, a psychologist licensed under IC 25-33, or a chiropractor licensed under IC 25-10:

(1) Ergonomic or home assessment.

(2) Injury or illness prevention education and wellness services.

(3) Occupational therapy activities provided in an educational setting.

(4) Occupational therapy activities that the board

determines, after reviewing the recommendations of the committee, are appropriate to be conducted in a community based environment.

SECTION 67. IC 25-23.5-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. A person who **knowingly or intentionally** violates this chapter commits a Class B misdemeanor.

SECTION 68. IC 25-23.5-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. A person who applies for a ~~certificate~~ **license** as an occupational therapist or a **certificate as an** occupational therapy assistant must present satisfactory evidence to the committee that the person:

(1) does not have a conviction for a crime that has a direct bearing on the person's ability to practice competently;

(2) has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the person was not able to practice as an occupational therapist or occupational therapy assistant without endangering the public;

(3) has graduated from a school or program of occupational therapy or a program for occupational therapy assistants approved by the board; and

(4) has passed an occupational therapist or occupational therapy assistant licensing or certifying examination approved by the board **under section 4.5 of this chapter.**

SECTION 69. IC 25-23.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The board may require a person who applies for a ~~certificate~~ **license** as an occupational therapist to have successfully completed supervised fieldwork experience arranged and approved by the school or program from which the person graduated.

(b) The board may require a person who applies for a certificate as an occupational therapy assistant to have successfully completed supervised fieldwork experience arranged and approved by the program from which the person graduated.

SECTION 70. IC 25-23.5-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. A person applying for a ~~certificate~~ **license or certificate** under this article must pay a fee.

SECTION 71. IC 25-23.5-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. A person who satisfies the requirements of sections 1 through 3 of this chapter may take the examination **provided approved** by the board **under section 4.5 of this chapter.**

SECTION 72. IC 25-23.5-5-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.5. (a) **The board shall do the following:**

(1) **Approve a nationally recognized examination for each type of license or certificate issued under this article.**

(2) **Establish the passing score necessary to obtain a license under this article.**

(b) **The board may use any part of an examination administered by:**

(1) **the National Board for Certification in Occupational Therapy, or its successor; or**

(2) **another nationally recognized body that provides examination services for occupational therapists, as determined by the committee;**

as the examination required to obtain a license under this article.

SECTION 73. IC 25-23.5-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The committee shall provide for examinations to be given at least two (2) times a year at times and places established by the board.

(b) The committee shall provide for examinations that test a person's knowledge of the basic and clinical sciences as they relate to **the practice of** occupational therapy, occupational

therapy theory and procedures, and other subjects the committee considers useful to test a person's fitness to practice as an occupational therapist or occupational therapy assistant.

SECTION 74. IC 25-23.5-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. The committee shall issue a ~~certificate license or certificate~~ to a person who

- (1) ~~achieves a passing score, as determined by the board, on the examination provided under this chapter; and~~
- (2) ~~is otherwise qualified meets the requirements for a license or certificate~~ under this article.

SECTION 75. IC 25-23.5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The committee may refuse to issue a ~~certificate license~~ or may issue a probationary ~~certificate license~~ to a person if:

- (1) the person has been disciplined by an administrative agency in another jurisdiction; and
- (2) the committee determines that the violation for which the person was disciplined has a direct bearing on the person's ability to practice **occupational therapy** as an occupational therapist or occupational therapy assistant.

(b) ~~The committee may refuse to issue a certificate or may issue a probationary certificate to a person if:~~

- (1) ~~the person has been disciplined by an administrative agency in another jurisdiction; and~~
- (2) ~~the committee determines that the violation for which the person was disciplined has a direct bearing on the person's ability to practice as an occupational therapy assistant.~~

SECTION 76. IC 25-23.5-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) If the committee issues a probationary ~~certificate license or probationary certificate~~ under section 7 of this chapter, the committee may require the person who holds the ~~certificate probationary license or probationary certificate~~ to perform one (1) or more of the following conditions:

- (1) Report regularly to the committee upon a matter that is the basis for the probation.
- (2) Limit practice to areas prescribed by the committee.
- (3) Continue or renew professional education.
- (4) Engage in community restitution or service without compensation for a number of hours specified by the committee.

(b) The committee shall remove a limitation placed on a probationary ~~certificate license or probationary certificate~~ if after a hearing the committee finds that the deficiency that caused the limitation has been remedied.

SECTION 77. IC 25-23.5-5-9, AS AMENDED BY P.L.1-2006, SECTION 457, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) A ~~certificate license or certificate~~ issued by the committee expires on a date established by the Indiana professional licensing agency under IC 25-1-5-4 in the next even-numbered year following the year in which the ~~certificate license or certificate~~ was issued.

(b) A person may renew a ~~certificate license or certificate~~ by paying a renewal fee on or before the expiration date of the ~~certificate license or certificate~~.

(c) If a person fails to pay a renewal ~~fee~~ on or before the expiration date of a ~~certificate license or certificate~~, the ~~certificate license or certificate~~ becomes invalid.

SECTION 78. IC 25-23.5-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) The committee shall reinstate an invalid ~~certificate license or certificate~~ up to three (3) years after the expiration date of the ~~certificate license or certificate~~ if the person holding the invalid ~~certificate license or certificate~~ meets the requirements under IC 25-1-8-6.

(b) If more than three (3) years have elapsed since the date a

~~certificate license or certificate~~ expired, the person holding the ~~certificate license or certificate~~ may renew the ~~certificate license or certificate~~ by satisfying the requirements for renewal established by the board and meeting the requirements under IC 25-1-8-6.

SECTION 79. IC 25-23.5-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) The committee may issue a temporary permit to a person to ~~profess to be engage in the practice of occupational therapy~~ as an occupational therapist or occupational therapy assistant if the person pays a fee and the person:

- (1) has a valid license or certificate to practice from another state and the person has applied for a ~~certificate license or certificate~~ from the committee;
- (2) is practicing **occupational therapy** in a state that does not license or certify occupational therapists or occupational therapy assistants but is certified by a national occupational therapy association approved by the ~~committee board~~ and the person has applied for a ~~certificate license or certificate~~ from the committee; or
- (3) ~~has been approved by the committee to take the next examination and has graduated from a school or program approved by the committee and the person has completed the fieldwork experience requirement.~~

(3) ~~meets all the following requirements:~~

- (A) ~~Has graduated from an accredited program.~~
- (B) ~~Has completed the fieldwork experience requirement for a license or certificate under this article.~~
- (C) ~~Is eligible to take the entry level examination.~~

(b) A person with a temporary permit issued under subsection (a)(3) may ~~profess to be engage in the practice of occupational therapy~~ as an occupational therapist or an occupational therapy assistant only under the supervision of an occupational therapist ~~certified licensed~~ under this article.

(c) A temporary permit expires the earlier of:

- (1) the date the person holding the permit is issued a ~~certificate permanent license or certificate~~ under this article; ~~or~~
- (2) the date the committee disapproves the person's ~~certificate license application or certificate application;~~ ~~or~~
- (3) ~~one hundred eighty days (180) days after the date the permit is issued.~~

(d) The committee may renew a temporary permit if the person holding the permit was scheduled to take the next examination and the person:

- (1) did not take the examination; and
- (2) shows good cause for not taking the examination.

(e) A permit renewed under subsection ~~(c)~~ (d) expires on the date the person holding the permit receives the results from the next examination given after the permit was issued.

SECTION 80. IC 25-23.5-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) A person who is ~~certified licensed or certified~~ under this article shall notify the committee in writing when the person retires from practice.

(b) Upon receipt of the notice, the committee shall:

- (1) record the fact the person is retired; and
- (2) release the person from further payment of renewal fees.

SECTION 81. IC 25-23.5-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) If a person surrenders a ~~certificate license or certificate~~ to the committee, the committee may reinstate the ~~certificate license or certificate~~ upon written request by the person.

(b) If the committee reinstates a ~~certificate license or certificate~~, the committee may impose conditions on the ~~certificate license or certificate~~ appropriate to the reinstatement.

(c) A person may not surrender a ~~certificate license or certificate~~ without written approval by the committee if a disciplinary proceeding under this article is pending against the person.

SECTION 82. IC 25-23.5-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. A person who applies for a ~~certificate license or certificate~~ under this article may be exempted by the committee from the examination requirement under section 6 of this chapter if the person:

- (1) is licensed or certified to practice **occupational therapy** as an occupational therapist or occupational therapy assistant in another state; or
- (2) is practicing **occupational therapy** in a state that does not license or certify occupational therapists or occupational therapy assistants and is certified by a national occupational therapy association approved by the board;

and is otherwise qualified under sections 1 through 3 of this chapter and pays an additional fee.

SECTION 83. IC 25-23.5-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. The committee may issue a ~~certificate license~~ to a person who has graduated as an occupational therapist or **issue a certificate to a person who has graduated as an** occupational therapy assistant from an educational program in a foreign country if the person:

- (1) graduated from an educational program approved by the board;
- (2) does not have a conviction for:
 - (A) an act that would constitute a ground for a disciplinary sanction under IC 25-1-9; or
 - (B) a crime that has a direct bearing on the person's ability to practice competently;
- (3) has not been the subject of a disciplinary action initiated by a licensing agency of another state or jurisdiction on the ground that the person was not able to practice **occupational therapy** as an occupational therapist or occupational therapy assistant without endangering the public;
- (4) passes the examination required under this chapter; and
- (5) pays a fee.

SECTION 84. IC 25-23.6-1-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.5. "Appraisal" means the use or administration of career and occupational instruments, adaptive behavioral and symptoms screening checklists, and inventories of interests and preferences that are administered for the purpose of counseling persons to cope with or adapt to changing life situations that are due to problems in living. The term includes the use of marital, relational, communicational, parent and child, and family systems assessment instruments. ~~The term does not include the use of restricted psychology tests or instruments as described in IC 25-33-1-2(1).~~

SECTION 85. IC 25-23.6-8-2.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.7. (a) An applicant under section 1 of this chapter must have at least ~~three (3)~~ **two (2)** years of clinical experience, during which at least fifty percent (50%) of the applicant's clients were receiving marriage and family therapy services. ~~Two (2) years of~~ The applicant's clinical experience must include one thousand (1,000) hours of post degree clinical experience and two hundred (200) hours of post degree clinical supervision, of which one hundred (100) hours must be individual supervision, under the supervision of a licensed marriage and family therapist who has at least five (5) years of experience or an equivalent supervisor, as determined by the board.

(b) Within the ~~three (3)~~ **two (2)** years required under subsection (a), the applicant must provide direct individual, group, and family therapy and counseling to the following

categories of cases:

- (1) Unmarried couples.
- (2) Married couples.
- (3) Separating or divorcing couples.
- (4) Family groups, including children.

(c) A doctoral internship may be applied toward the supervised work experience requirement.

(d) Except as provided in subsection (e), the experience requirement may be met by work performed at or away from the premises of the supervising marriage and family therapist.

(e) The work requirement may not be performed away from the supervising marriage and family therapist's premises if:

- (1) the work is the independent private practice of marriage and family therapy; and
- (2) the work is not performed at a place that has the supervision of a licensed marriage and family therapist or an equivalent supervisor, as determined by the board.

SECTION 86. IC 25-23.7-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. The licensing agency shall provide the board with clerical or other assistants ~~including investigators~~, necessary for the proper performance of the board's duties.

SECTION 87. IC 25-33-1-1.1, AS AMENDED BY SEA 526-2007, SECTION 343, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.1. (a) ~~Except as provided in sections 3(g) and 14(c) of this chapter, Subject to subsection (b),~~ this article exempts a person who does not profess to be a psychologist and who is:

- (1) a **certified licensed** marriage and family therapist;
- (2) a **certified licensed** social worker or a **certified licensed** clinical social worker;
- (3) a **licensed mental health counselor**;
- ~~(3) (4)~~ (4) a minister, priest, rabbi, or other member of the clergy providing pastoral counseling or other assistance;
- ~~(4) (5)~~ (5) a licensed or certified health care professional;
- ~~(5) (6)~~ (6) a licensed attorney;
- ~~(6) (7)~~ (7) a student, an intern, or a trainee pursuing a course of study in psychology in an accredited postsecondary educational institution or training institution if the psychology activities are performed under qualified supervision and constitute a part of the person's supervised course of study or other level of supervision as determined by the board;
- ~~(7) (8)~~ (8) an employee of or a volunteer for a nonprofit corporation or an organization performing charitable, religious, or educational functions, providing pastoral counseling or other assistance; or
- ~~(8) (9)~~ (9) any other certified or licensed ~~profession~~ **professional**.

(b) To be exempt under this article, a person described under subsection (a)(1), (a)(2), ~~(a)(4)~~, (a)(3), (a)(5), (a)(6), (a)(7) or ~~(a)(8)~~ (a)(9) must provide services:

- (1) within the ~~person's~~ scope of **the person's** practice, **license, education**, and training; and
- (2) according to any applicable ethical standards of the person's profession.

SECTION 88. IC 25-33-1-3, AS AMENDED BY P.L.1-2006, SECTION 478, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) There is created a board to be known as the "state psychology board". The board shall consist of seven (7) members appointed by the governor. Six (6) of the board members shall be licensed under this article and shall have had at least five (5) years of experience as a professional psychologist prior to their appointment. The seventh member shall be appointed to represent the general public, must be a resident of this state, must never have been credentialed in a mental health profession, and must in no way be associated with the profession of psychology other than as a consumer. All members shall be appointed for a term of three (3) years. All

members may serve until their successors are duly appointed and qualified. A vacancy occurring on the board shall be filled by the governor by appointment. The member so appointed shall serve for the unexpired term of the vacating member. Each member of the board is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the state budget agency.

(b) The members of the board shall organize by the election of a chairman and a vice chairman from among its membership. Such officers shall serve for a term of one (1) year. The board shall meet at least once in each calendar year and on such other occasions as it considers necessary and advisable. A meeting of the board may be called by its chairman or by a majority of the members on the board. Four (4) members of the board constitute a quorum. A majority of the quorum may transact business.

(c) The board is empowered to do the following:

- (1) Establish reasonable application, examination, and renewal procedures and set fees for licensure under this article. However, no fee collected under this article shall, under any circumstances, be refunded.
- (2) Adopt and enforce rules concerning assessment of costs in disciplinary proceedings before the board.
- (3) Establish examinations of applicants for licensure under this article and issue, deny, suspend, revoke, and renew licenses.
- (4) Subject to IC 25-1-7, investigate and conduct hearings, upon complaint against individuals licensed or not licensed under this article, concerning alleged violation of this article, under procedures conducted in accordance with IC 4-21.5.
- (5) Initiate the prosecution and enjoinder of any person violating this article.
- (6) Adopt rules which are necessary for the proper performance of its duties, in accordance with IC 4-22-2.
- (7) Establish a code of professional conduct.

(d) The board shall adopt rules establishing standards for the competent practice of psychology.

(e) All expenses incurred in the administration of this article shall be paid from the general fund upon appropriation being made in the manner provided by law for the making of such appropriations.

(f) The bureau shall do the following:

- (1) Carry out the administrative functions of the board.
- (2) Provide necessary personnel to carry out the duties of this article.
- (3) Receive and account for all fees required under this article.
- (4) Deposit fees collected with the treasurer of state for deposit in the state general fund.

(g) The board shall adopt rules under IC 4-22-2 to establish, maintain, and update a list of restricted psychology tests and instruments (as defined in section 14(b) of this chapter) containing those psychology tests and instruments that, because of their design or complexity, create a danger to the public by being improperly administered and interpreted by an individual other than:

- (1) a psychologist licensed under IC 25-33-1-5.1;
- (2) an appropriately trained mental health provider under the direct supervision of a health service provider endorsed under IC 25-33-1-5.1(c);
- (3) a qualified physician licensed under IC 25-22-5;
- (4) a school psychologist who holds a valid:
 - (A) license issued by the department of education under IC 20-28-2; or
 - (B) endorsement under IC 20-28-12;

practicing within the scope of the school psychologist's license or endorsement; or

(5) a minister, priest, rabbi, or other member of the clergy providing pastoral counseling or other assistance.

(h) The board shall provide to:

- (1) the social work certification and marriage and family therapists credentialing board; and
- (2) any other interested party upon receiving the request of the interested party;

a list of the names of tests and instruments proposed for inclusion on the list of restricted psychological tests and instruments under subsection (g) at least sixty (60) days before publishing notice of intent under IC 4-22-2-23 to adopt a rule regarding restricted tests and instruments:

(i) The social work certification and marriage and family therapists credentialing board and any other interested party that receives the list under subsection (h) may offer written comments or objections regarding a test or instrument proposed for inclusion on the list of restricted tests and instruments within sixty (60) days after receiving the list: If:

- (1) the comments or objections provide evidence indicating that a proposed test or instrument does not meet the criteria established for restricted tests and instruments, the board may delete that test from the list of restricted tests; and
- (2) the board determines that a proposed test or instrument meets the criteria for restriction after reviewing objections to the test or instrument, the board shall respond in writing to justify its decision to include the proposed test or instrument on the list of restricted tests and instruments.

(j) (g) This section may not be interpreted to prevent a licensed or certified health care professional from practicing within the scope of the health care professional's:

- (1) license or certification; and
- (2) training or credentials.

SECTION 89. IC 25-33-1-14, AS AMENDED BY SEA 526-2007, SECTION 347, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) This section does not apply to an individual who is:

- (1) a member of a teaching faculty, at a public or private postsecondary educational institution for the purpose of teaching, research, or the exchange or dissemination of information and ideas as an assigned duty of the institution;
- (2) a commissioned psychology officer in the regular United States armed services;
- (3) licensed by the department of education (established by IC 20-19-3-1) as a school psychologist and using the title "school psychologist" or "school psychometrist" as an employee of a school corporation; or
- (4) endorsed as an independent practice school psychologist under IC 20-28-12.

(b) As used in this section, "restricted psychology test or instrument" means a measurement instrument or device used for treatment planning, diagnosing, or classifying intelligence, mental and emotional disorders and disabilities, disorders of personality, or neuropsychological, neurocognitive, or cognitive functioning. The term does not apply to an educational instrument used in a school setting to assess educational progress or an appraisal instrument.

(c) (b) It is unlawful for an individual to:

- (1) claim that the individual is a psychologist; or
- (2) use any title which uses the word "psychologist", "clinical psychologist", "Indiana endorsed school psychologist", or "psychometrist", or any variant of these words, such as "psychology", or "psychological", or "psychologic";

unless that individual holds a valid license issued under this article or a valid endorsement issued under IC 20-28-12.

(d) (c) It is unlawful for any individual, regardless of title, to render, or offer to render, psychological services to individuals,

organizations, or to the public, unless the individual holds a valid license issued under this article or a valid endorsement issued under IC 20-28-12 or is exempted under section 1.1 of this chapter.

(c) ~~It is unlawful for an individual, other than:~~

~~(1) a psychologist licensed under IC 25-33-1-5.1;~~

~~(2) an appropriately trained mental health provider under the direct supervision of a health service provider endorsed under IC 25-33-1-5.1(c);~~

~~(3) a qualified physician licensed under IC 25-22-5;~~

~~(4) a school psychologist who holds a valid:~~

~~(A) license issued by the department of education under IC 20-28-2; or~~

~~(B) endorsement under IC 20-28-12;~~

~~who practices within the scope of the school psychologist's license or endorsement; or~~

~~(5) a minister, priest, rabbi, or other member of the clergy providing pastoral counseling or other assistance;~~

~~to administer or interpret a restricted psychology test or instrument as established by the board under section 3(g) of this chapter in the course of rendering psychological services to individuals, organizations, or to the public.~~

(f) (d) This section may not be interpreted to prevent a licensed or certified health care professional from practicing within the scope of the health care professional's:

(1) license or certification; and

(2) training or credentials.

SECTION 90. IC 25-35.6-1-7, AS AMENDED BY SEA 451-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The division of professional standards established within the department of education by IC 20-28-2-1.5 (referred to as "the division of professional standards" in this section) may issue the following:

(1) An initial license as a speech-language pathologist only to an individual who is licensed as a speech-language pathologist under this article.

(2) A nonrenewable initial license as a speech-language pathologist to an individual who is completing a clinical fellowship in speech-language pathology and who has registered the clinical fellowship with the board. The nonrenewable initial license expires on the earlier of:

(A) the date the individual is licensed by the board as a speech-language pathologist; or

(B) eighteen (18) months after the individual begins the clinical fellowship in speech-language pathology.

~~(2) (3) A renewal license as a speech-language pathologist to an individual who was licensed by the professional standards board before July 1, 2005, and who is not licensed as a speech-language pathologist under this article.~~

(b) The division of professional standards shall issue a license as a speech-language pathologist to an individual who:

(1) is licensed as a speech-language pathologist under this article; and

(2) requests licensure.

(c) A speech-language pathologist licensed by the division of professional standards shall register with the Indiana professional licensing agency all speech-language pathology support personnel that the speech-language pathologist supervises.

(d) The division of professional standards may not impose different or additional supervision requirements upon speech-language pathology support personnel than the supervision requirements that are imposed under this article.

(e) The division of professional standards may not impose continuing education requirements upon an individual who receives a license under this section that are different from or in addition to the continuing education requirements imposed under this article.

(f) An individual:

(1) who:

(A) if the individual is a speech-language pathologist, receives a license under this section or received a license as a speech-language pathologist issued by the professional standards board before July 1, 2005; or

(B) if the individual is an audiologist, works in an educational setting;

(2) who has been the holder of a certificate of clinical competence in speech-language pathology or audiology or its equivalent issued by a nationally recognized association for speech-language pathology and audiology for at least three (3) consecutive years; and

(3) who has professional experience as a licensed speech-language pathologist or audiologist in a school setting that is equivalent to the experience required for a teacher seeking national certification by the National Board of Professional Teaching Standards;

is considered to have the equivalent of and is entitled to the same benefits that accrue to a holder of a national certification issued by the National Board for Professional Teaching Standards.

SECTION 91. IC 25-35.6-1-8, AS ADDED BY P.L.212-2005, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) The board shall adopt rules under IC 4-22-2 to define the role of support personnel, including the following:

(1) Supervisory responsibilities of the speech-language pathologist.

(2) Ratio of support personnel to speech-language pathologists.

(3) Scope of duties and restrictions of responsibilities for each type of support personnel.

(4) Frequency, duration, and documentation of supervision.

(5) Education and training required to perform services.

(6) Procedures for renewing registration and terminating duties.

(b) A speech-language pathologist must meet the following qualifications to supervise speech-language pathology support personnel:

(1) Hold a current license as a speech-language pathologist **issued by the board.**

(2) Have at least three (3) years of clinical experience.

(3) Hold a certificate of clinical competence in speech-language pathology or its equivalent issued by a nationally recognized association for speech-language and hearing.

(c) Speech-language pathology support personnel may provide support services only under the supervision of a speech-language pathologist.

SECTION 92. IC 34-6-2-117 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 117. "Professional health care provider", for purposes of IC 34-30-15, means:

(1) a physician licensed under IC 25-22.5;

(2) a dentist licensed under IC 25-14;

(3) a hospital licensed under IC 16-21;

(4) a podiatrist licensed under IC 25-29;

(5) a chiropractor licensed under IC 25-10;

(6) an optometrist licensed under IC 25-24;

(7) a psychologist licensed under IC 25-33;

(8) a pharmacist licensed under IC 25-26;

(9) a health facility licensed under IC 16-28-2;

(10) a registered or licensed practical nurse licensed under IC 25-23;

(11) a physical therapist licensed under IC 25-27;

(12) a home health agency licensed under IC 16-27-1;

(13) a community mental health center (as defined in IC 12-7-2-38);

(14) a health care organization whose members, shareholders, or partners are:

- (A) professional health care providers described in subdivisions (1) through (13);
- (B) professional corporations comprised of health care professionals (as defined in IC 23-1.5-1-8); or
- (C) professional health care providers described in subdivisions (1) through (13) and professional corporations comprised of persons described in subdivisions (1) through (13);
- (15) a private psychiatric hospital licensed under IC 12-25;
- (16) a preferred provider organization (including a preferred provider arrangement or reimbursement agreement under IC 27-8-11);
- (17) a health maintenance organization (as defined in IC 27-13-1-19) or a limited service health maintenance organization (as defined in IC 27-13-34-4);
- (18) a respiratory care practitioner licensed under IC 25-34.5;
- (19) an occupational therapist ~~certified~~ licensed under IC 25-23.5;
- (20) a state institution (as defined in IC 12-7-2-184);
- (21) a clinical social worker who is licensed under IC 25-23.6-5-2;
- (22) a managed care provider (as defined in IC 12-7-2-127(b));
- (23) a nonprofit health care organization affiliated with a hospital that is owned or operated by a religious order, whose members are members of that religious order; or
- (24) a nonprofit health care organization with one (1) or more hospital affiliates.

SECTION 93. IC 35-48-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. ~~Denial, Revocation, and Suspension of Registration:~~ (a) An application for registration or re-registration submitted pursuant to and a registration issued under section 3 of this chapter to manufacture, distribute, or dispense a controlled substance may be denied, suspended, or revoked by the board upon a finding by the advisory committee that the applicant or registrant:

- (1) has furnished false or fraudulent material information in any application filed under this article;
- (2) has violated any state or federal law relating to any controlled substance;
- (3) has had his federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances; or
- (4) has failed to maintain reasonable controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels.

(b) The board may limit revocation or suspension of a registration or the denial of an application for registration or re-registration to the particular controlled substance with respect to which grounds for revocation, suspension, or denial exist.

(c) If the board suspends or revokes a registration or denies an application for re-registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation or denial order may be placed under seal. The board may require the removal of such substances from the premises. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation or denial order becoming final, all controlled substances may be forfeited to the state.

(d) The board shall promptly notify the drug enforcement administration of all orders suspending or revoking registration, all orders denying any application for registration or re-registration, and all forfeitures of controlled substances.

(e) If the Drug Enforcement Administration terminates, denies, suspends, or revokes a federal registration for the

manufacture, distribution, or dispensing of controlled substances, a registration issued by the board under this chapter is automatically suspended.

(f) The board may reinstate a registration that has been suspended under subsection (e), after a hearing, if the board is satisfied that the applicant is able to manufacture, distribute, or dispense controlled substances with reasonable skill and safety to the public. As a condition of reinstatement, the board may impose disciplinary or corrective measures authorized under IC 25-1-9-9 or this article.

SECTION 94. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2007]: IC 25-8-4-22; IC 25-8-4-23; IC 25-8-4-24; IC 25-8-4-25; IC 25-8-4-26; IC 25-8-6.1; IC 25-8-6.2; IC 25-8-16.

SECTION 95. [EFFECTIVE JULY 1, 2007] (a) The definitions in IC 25-35.6-1-2 apply throughout this SECTION.

(b) Notwithstanding IC 25-35.6, as amended by this act, concerning issuance of a license, the Indiana professional licensing agency shall issue a license in speech-language pathology as follows:

(1) To each individual who applies for licensure and meets all the following qualifications:

(A) Holds a license in speech and hearing therapy issued by the division of professional standards established within the department of education by IC 20-28-2-1.5 (referred to as "the division of professional standards" in this SECTION).

(B) Has a master's degree in speech-language pathology or a related discipline.

(C) Has been employed as a speech-language pathologist for at least nine (9) months in the last five (5) years.

(2) To each individual who applies for licensure and meets all the following qualifications:

(A) Holds a life license in speech-language pathology issued by the division of professional standards.

(B) Has:

(i) been employed as a speech-language pathologist for at least nine (9) months in the last five (5) years; or

(ii) taken at least thirty-six (36) hours of continuing education approved by the division of professional standards or the Indiana professional licensing agency after December 31, 2004, and before December 31, 2010.

(c) This SECTION expires January 1, 2011.

SECTION 96. [EFFECTIVE JULY 1, 2007] (a) If an individual is certified as an occupational therapist under IC 25-23.5 on June 30, 2007, the individual is considered to be a licensed occupational therapist under IC 25-23.5, as amended by this act, on July 1, 2007. The license of an individual described in this subsection expires on the date the individual's certification that the license is replacing would have expired if this act had not been enacted.

(b) The occupational therapy committee established by IC 25-23.5-2-1 shall issue a license under IC 25-23.5-5-6, as amended by this act, to an individual described in subsection (a). However, the occupational therapy committee and the Indiana professional licensing agency are not required to issue:

(1) a wall license; or

(2) a pocket license;

to an individual described in subsection (a) until the license renewal period beginning November 1, 2008.

(c) The medical licensing board of Indiana may adopt temporary rules in the manner provided for emergency rule adoption under IC 4-22-2-37.1 to implement IC 25-23.5, as amended by this act. A temporary rule adopted under this subsection expires on the earliest of the following:

- (1) The date that the temporary rule is superseded by another temporary rule adopted under this subsection.
 (2) The date that the temporary rule is superseded by a rule adopted under IC 4-22-2.
 (3) The date specified in the temporary rule.
 (4) July 1, 2009.

(d) This SECTION expires July 1, 2010.

SECTION 97. [EFFECTIVE JULY 1, 2007] (a) This SECTION applies only to a person who is employed with a home health agency or a personal services agency on June 30, 2007, to provide services in a patient's or client's temporary or permanent residence.

(b) The definitions under IC 16-27-2 apply throughout this SECTION.

(c) Notwithstanding IC 10-13-3-39 and IC 16-27-2-4, both as amended by this act, a home health agency or personal services agency is not required to apply for a determination concerning the national criminal history background check of a person to whom this SECTION applies until July 1, 2008.

(d) Notwithstanding IC 16-27-2-5, as amended by this act, a home health agency or personal services agency may not employ a person to whom this SECTION applies to provide services in a patient's or client's temporary or permanent residence for more than twenty-one (21) days without receipt of the determination concerning the person's national criminal history background check. However, a home health agency or personal services agency may not employ a person to whom this SECTION applies to provide services in a patient's or client's temporary or permanent residence for more than twenty-one (21) days after July 1, 2008, unless either the state police department or the Federal Bureau of Investigation under IC 10-13-3-39 is responsible for failing to provide the determination of the person's national criminal history background check to the home health agency or personal services agency within the time required under this subsection.

(e) This SECTION expires December 31, 2008.

(Reference is to EHB 1821 as reprinted April 11, 2007.)

KLINKER	MILLER
FRIZZELL	ROGERS
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1027 because it conflicts with SEA 94-2007 without properly recognizing the existence of SEA 94-2007, has had Engrossed House Bill 1027 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1027 be corrected as follows:

Page 1, line 1, after "IC 22-2-2-4" insert ", AS AMENDED BY SEA 94-2007, SECTION 184,".

Page 8, line 5, delete "the mentally ill or defective" and insert "individuals with a mental illness or defect".

(Reference is to EHB 1027 as printed April 6, 2007.)

PELATH, Chair
 WHETSTONE, R.M.M.
 DAY, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on

Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 506 because it conflicts with SEA 490-2007 without properly recognizing the existence of SEA 490-2007, has had Engrossed Senate Bill 506 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 506 be corrected as follows:

Page 1, line 1, after "IC 25-1-2-6" insert ", AS AMENDED BY SEA 490-2007, SECTION 3,".

Page 1, line 13, delete "and" and insert ",,".

Page 1, line 13, delete "." and insert ", and registered interior designers,".

Page 3, line 6, delete "P.L.157-2006," and insert "SEA 490-2007,".

Page 3, line 7, delete "11," and insert "4,".

Page 3, line 11, delete "and" and insert ",,".

Page 3, line 11, after "landscape architects" insert ", and registered interior designers,".

Page 3, line 23, delete "(IC 25-32).".

Page 3, line 24, reset in roman "(IC 25-32-1).".

Page 4, line 13, delete "P.L.206-2005," and insert "SEA 490-2007,".

Page 4, line 14, delete "9," and insert "5,".

Page 4, line 20, delete "and" and insert ",,".

Page 4, line 20, after "landscape architects" insert ", and registered interior designers,".

Page 4, line 41, after "IC 25-1-7-1" insert ", AS AMENDED BY SEA 490-2007, SECTION 6,".

Page 5, line 16, delete "and" and insert ",,".

Page 5, line 16, after "landscape architects" insert ", and registered interior designers,".

Page 6, line 20, after "IC 25-1-8-1" insert ", AS AMENDED BY SEA 490-2007, SECTION 7,".

Page 6, line 24, delete "and" and insert ",,".

Page 6, line 24, after "landscape architects" insert ", and registered interior designers,".

Page 7, line 31, delete "P.L.157-2006," and insert "SEA 490-2007,".

Page 7, line 32, delete "20," and insert "8,".

Page 7, line 36, delete "and" and insert ",,".

Page 7, line 36, after "landscape architects" insert ", and registered interior designers,".

Page 9, line 33, after "IC 25-1-11-1" insert ", AS AMENDED BY SEA 490-2007, SECTION 9,".

Page 9, line 37, delete "and" and insert ",,".

Page 9, line 37, after "landscape architects" insert ", and registered interior designers,".

(Reference is to ESB 506 as reprinted April 10, 2007.)

PELATH, Chair
 WHETSTONE, R.M.M.
 TINCHER, Sponsor

Report adopted.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 86

Representatives Kersey and TIncher introduced House Concurrent Resolution 86:

A CONCURRENT RESOLUTION urging the Legislative Council to assign to the Natural Resources Study Committee the topic of the impact of invasive species in Indiana.

Whereas, Public and private lands are affected by the spread of invasive species in Indiana;

Whereas, In recent years, Indiana has seen its natural lakes affected by invasive plants threatening the native flora and fauna and affecting recreational opportunities;

Whereas, Indiana forests are being exposed to an exotic

insect that places all species of ash trees in Indiana in imminent danger; and

Whereas, Property owners all over Indiana, including agricultural landowners, are suffering the effect of invasive plants and the subsequent need to eradicate these invasive species, such as bush honeysuckle (Amur, Tartarian, and Morrow honeysuckle), on their lands: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the Legislative Council is urged to assign to the Natural Resources Study Committee the topic of the impact of invasive species in Indiana.

SECTION 2. That the Natural Resources Study Committee shall establish a task force to study the economic and environmental impact of invasive species in Indiana and provide findings and recommendations on strategies for prevention, early detection, control, and management of invasive species to minimize this impact.

SECTION 3. That the task force shall be composed of the state entomologist or designee, the state chemist or designee, the director of the Animal Board of Health or designee, the director of the Purdue University Center for Crop Biosecurity and Invasive Species or designee, a representative of the nursery and landscape industry, a representative of a conservation group, a representative of a city park, and two representatives from universities.

SECTION 4. That the task force shall issue a report and recommendations to the National Resources Study Committee when the committee first meets in the 2008 interim. The Natural Resources Study Committee shall then issue a final report with recommendations to the Legislative Council by November 1, 2008.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

House Concurrent Resolution 88

Representative Tyler introduced House Concurrent Resolution 88:

A CONCURRENT RESOLUTION honoring Melinda Webb.

Whereas, Muncie firefighter Melinda Webb won a bronze medal in golf in the 2007 World Police and Fire Games held in Adelaide, Australia, missing first place by only two strokes;

Whereas, Melinda Webb, who began playing golf with her father at a young age, scored 236 to earn the bronze medal in the women's open division;

Whereas, Although a little rusty coming out of winter, Melinda Webb improved her score each day;

Whereas, Melinda Webb, Muncie's only representative in this year's games, also competed in a team division with Lester Sorgen, a Fort Wayne firefighter;

Whereas, The World Police and Fire Games are a biennial Olympics for public safety officers and were attended by an estimated 10,000 athletes from more than 60 countries; and

Whereas, By attending the World Police and Fire Games, Melinda Webb has made friends with people from all over the world and experienced an event that will influence her life forever: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the Indiana General Assembly congratulates Melinda Webb on winning a bronze medal at the 2007 World Police and Fire Games in golf and wishes her

continued success in all her endeavors.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Melinda Webb.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Errington.

House Resolution 85

Representatives Pierce, Saunders, and Bischoff introduced House Resolution 85:

A HOUSE RESOLUTION urging the legislative council to assign to the natural resources study committee the topic of courthouse renovation.

Whereas, Courthouses stand as icons of Hoosier pride and symbols of government and unity in all Indiana counties; and

Whereas, It is important that these structures are maintained and that funds be set aside for this purpose: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the legislative council is urged to assign to the natural resources study committee the topic of courthouse renovation.

SECTION 2. That the committee shall operate under the direction of the legislative council and that the committee shall issue a final report when directed to do so by the council.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

House Resolution 86

Representative Porter introduced House Resolution 86:

A HOUSE RESOLUTION urging the establishment of an interim committee to study teacher and school psychologists recruitment and retention and the relevancy and value of creating incentive funds for teachers and school psychologists who have attained national board certification.

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the legislative council is urged to establish a committee to study teacher and school psychologists recruitment and retention issues.

SECTION 2. That the committee, if established shall operate under the direction of the legislative council and the committee shall issue a final report when directed to do so by the council.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

House Resolution 87

Representative Welch introduced House Resolution 87:

A HOUSE RESOLUTION urging the establishment of an interim study committee to study pharmacy benefit managers.

Whereas, Pharmacy benefit managers (PBMs) are companies that administer drug benefit programs for employers and health insurance carriers; and

Whereas, To ensure that all practices are fair and consumers are protected from deceptive actions, the state should further study the requirements that apply to all pharmacy benefit managers: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the legislative council is urged to establish an interim study committee to study pharmacy benefit managers.

SECTION 2. That the committee, if established, shall operate under the direction of the legislative council and that the committee shall issue a final report when directed to do so by the council.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

House Resolution 88

Representative Cheney introduced House Resolution 88:

A HOUSE RESOLUTION urging the establishment of an interim study committee on worker's compensation.

Whereas, Worker's compensation laws are designed to ensure that employees who are injured or disabled on the job are provided for; these laws also provide benefits for dependents of those workers who are killed due to work-related accidents or illnesses: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the legislative council is urged to establish an interim study committee to study issues concerning worker's compensation.

SECTION 2. That the topics of the committee, if established, include comparison of state worker's compensation systems, efficiency of the worker's compensation system, and the current status of the worker's compensation system.

SECTION 3. That the committee, if established, shall operate under the direction of the legislative council and that the committee shall issue a final report when directed to do so by the council.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

House Resolution 89

Representative Avery introduced House Resolution 89:

A HOUSE RESOLUTION urging the establishment of an interim study committee on homeless youths.

Whereas, The phenomenon of runaway, homeless, and street youths continues to be a national concern;

Whereas, Indiana currently has no mechanism for tracking the number of runaway, homeless, and street youths; and

Whereas, The shelters that house this group on an emergency basis report increased numbers of these youths; therefore, Indiana needs to further investigate and research this problem, including the factors that lead to homelessness: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the legislative council is urged to establish an interim study committee to study the problem of homeless youths.

SECTION 2. That the committee, if established, shall operate under the direction of the legislative council and that the committee shall issue a final report when directed to do so by the council.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

House Resolution 90

Representatives Kersey and Tincher introduced House Resolution 90:

A HOUSE RESOLUTION urging the legislative council to assign to the appropriate committee the issue of transportation security related to ports, freight yards, and rail yards.

Whereas, With the increase in terrorist activity throughout the

world and the threat of additional terror attacks on United States soil, it is vital to be fully aware of all possible dangers that exist at all ports of entry into the United States;

Whereas, Additionally, terrorists could create mass confusion and great loss of life if they were to strike the nation's freight and rail yards;

Whereas, There have been increasing numbers of catastrophic derailments throughout the United States in which the release of hazardous materials has occurred, resulting in the loss of life and property while causing prolonged evacuations; and

Whereas, With the absence of a credible risk assessment, secured access to railroad property and equipment, an adequately trained railroad workforce, and an established community protection plan, it behooves the state to study the issue more closely: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the legislative council is urged to assign to the appropriate committee the issue of transportation security related to ports, freight yards, and rail yards.

The resolution was read a first time and referred to the Committee on Rules and Legislative Procedures.

House Resolution 91

Representatives V. Smith and T. Brown introduced House Resolution 91:

A HOUSE RESOLUTION recognizing Morris Chestnut.

Whereas, Morris Chestnut was born in Cerritos, California, and graduated from Richard Gahr High School;

Whereas, Morris Chestnut studied finance and drama at California State University at Northridge and is a member of Phi Beta Sigma fraternity;

Whereas, Morris Chestnut began his acting career in the movie "Boyz N the Hood" and followed it up with roles in various TV movies and situation comedies;

Whereas, Morris Chestnut continued to work steadily throughout the 1990s;

Whereas, As the decade ended, more movies about African-Americans and their problems with family and relationship complexities began to develop, and more roles became available to Morris Chestnut; and

Whereas, Morris Chestnut earned an NAACP Image Award nomination for his performance in "The Best Man": Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives recognizes the many contributions of Morris Chestnut and thanks him for his efforts on behalf of the citizens of Indiana.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Morris Chestnut.

The resolution was read a first time and adopted by voice vote.

House Resolution 92

Representatives Grubb and Richardson introduced House Resolution 92:

A HOUSE RESOLUTION to express the Indiana House of Representatives' appreciation to John Rosich and Seyfert's Snacks.

Whereas, Representatives spend countless hours in session, committee hearings, and meetings which makes eating meals

difficult and sometimes impossible;

Whereas, Seyfert's pretzels give us the energy and nourishment to complete our legislative duties; and

Whereas, The pretzels donated to the House by Seyfert's Snacks have been truly enjoyed and appreciated by the members and their staff: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives wishes to express its sincere appreciation to John Rosich and Seyfert's Snacks for their generous donations.

SECTION 2. That the Principal Clerk of the House shall transmit copies of this resolution to John Rosich and Seyfert's Snacks.

The resolution was read a first time and adopted by voice vote.

House Resolution 93

Representative Avery introduced House Resolution 93:

A HOUSE RESOLUTION honoring Sherrienne Maddox Standley.

Whereas, Sherrienne Maddox Standley has dedicated much of her life to the education of young people;

Whereas, Sherrienne Maddox Standley will be stepping down as Senior Vice President for Advancement at the University of Southern Indiana on December 31, 2007;

Whereas, At the time of her appointment, Sherrienne Maddox Standley was the first woman to become a vice president of an Indiana public university;

Whereas, Sherrienne Maddox Standley joined the University of Southern Indiana in 1976 as director of publications and served as assistant to the president from 1978 to 1986;

Whereas, Before coming to the University of Southern Indiana, Sherrienne Maddox Standley was director of public relations and development at Northern Kentucky University from 1972 to 1975;

Whereas, Sherrienne Maddox Standley is active in the community, serving on the boards of Keep Evansville Beautiful, the Public Education Foundation of Evansville, the Evansville Kennel Club, the Vanderburgh County Sheriff's Merit and Pension Boards, the Evansville Sewer and Water Utility Board, the Indiana Council for the Advancement and Support of Education, Trinity United Methodist Church, Evansville's Celebration of Diversity Distinguished Lecture Series, and New Harmony's Blaffer Foundation; and

Whereas, Sherrienne Maddox Standley has touched the lives of many people throughout our state and her efforts have helped these people better prepare themselves for the future: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives expresses its appreciation to Sherrienne Maddox Standley for her dedicated service to the University of Southern Indiana and the citizens of Indiana.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Sherrienne Maddox Standley.

The resolution was read a first time and adopted by voice vote.

House Resolution 94

Representatives Grubb and Richardson introduced House Resolution 94:

A HOUSE RESOLUTION to express the Indiana House of Representatives' great appreciation to the Hoosier Beverage Association Inc.

Whereas, Enacting legislation within the House can be an arduous procedure. Long hours spent during session, hearings, and meetings often leave members feeling fatigued and weary;

Whereas, The soft drinks provided by Hoosier Beverage Association Inc. give members and their staff the energy and nourishment to complete the legislative process;

Whereas, The soft drinks supplied to the House have been greatly appreciated and enjoyed immensely by all members and staff: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. The members of the Indiana House of Representatives express our sincere appreciation to Hoosier Beverage Association Inc. for their generosity and kindness.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to Joe Lackey and the Hoosier Beverage Association.

The resolution was read a first time and adopted by voice vote.

House Resolution 95

Representative V. Smith introduced House Resolution 95:

A HOUSE RESOLUTION recognizing the academic achievements of Gary Community School Corporation for the school year 2006-2007.

Whereas, Pursuant to the No Child Left Behind Act, signed into law in 2001, schools must achieve standards of Adequate Yearly Progress, which include all demographic groups;

Whereas, Gary Community School Corporation made AYP at the district level for the first time since the standard had been set by the federal government;

Whereas, Gary Community School Corporation's achievement is especially worthy of praise because of the serious challenges facing Gary schools including the high concentration of students with disabilities;

Whereas, Gary Community School Corporation's success was the result of the implementation of a five-year strategic plan encompassing customized instructional and management methods and tools;

Whereas, This plan helped teachers and administration achieve greater effectiveness in the classroom assuring that all students attain high academic achievement, safe and orderly learning environment, effective and efficient operations and recruitment and retention of highly qualified teachers, administrators and staff;

Whereas, Gary Community School Corporation's efforts have focused largely on the elementary level where the greatest improvements have been seen;

Whereas, Gary Community School Corporation's strategy of laying a solid foundation promises greater improvement and success in the future;

Whereas, The U.S. Department of Education was so impressed by the strides made in Gary that officials recently visited schools there to hear from administrators and students; and

Whereas, The students, parents, teachers, and administrators of Gary Community School Corporation should be commended for their efforts in making strides towards becoming a more highly competitive, attractive and academically reputable school district; Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. The Indiana House of Representatives hereby recognizes the academic achievements of Gary Community School Corporation for the school year 2006-07.

SECTION 2. The Principle Clerk of the House of Representatives shall transmit a copy of this resolution to the Gary School Board of Trustees and Superintendent Dr. Mary Steele-Agee.

The resolution was read a first time and adopted by voice vote.

House Resolution 96

Representatives Grubb and Richardson introduced House Resolution 96:

A HOUSE RESOLUTION to express the Indiana House of Representatives' appreciation to Warren Disch and Supervalu-Central.

Whereas, Representatives spend countless hours in session, committee hearings, and meetings which makes eating meals difficult and sometimes impossible;

Whereas, M&M candies gives us the energy and nourishment to complete our legislative duties; and

Whereas, The candy supplied to the House by Supervalu-Central has been truly enjoyed and appreciated by the members and their staff; Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives expresses its sincere appreciation to Warren Disch and Supervalu-Central for their generosity.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to Warren Disch and Supervalu-Central.

The resolution was read a first time and adopted by voice vote.

House Resolution 97

Representatives Elrod and Frizzell introduced House Resolution 97:

A HOUSE RESOLUTION honoring the late Francis Marion "Frank" Hendley, II, on the anniversary of his 90th birthday.

Whereas, Francis Marion Hendley was born February 24, 1917, in Birmingham, Alabama, the youngest son of Seay Smith Hendley, Sr., of Fountain Run, Kentucky, and the former Loula Mae Dixon of Upton, Kentucky;

Whereas, Francis Marion Hendley attended Norwood Grammar School and Phillips High School in Birmingham, Alabama, completing the 11th grade in 1933;

Whereas, Francis Marion Hendley volunteered in the United States Coast Guard Reserves on August 18, 1942, in Louisville, Kentucky;

Whereas, Francis Marion Hendley was immediately called to active duty and served his country with valor in the Pacific Theater during World War II as a member of the amphibious assault forces assigned to the U.S.S. Hunter Liggett;

Whereas, These sea units were issued a commendation on January 11, 1943, by Admiral Chester W. Nimitz, Commander-in-Chief of the U.S. Pacific Fleet for "the movement of large numbers of troops into and out of the Guadalcanal-Tulagi area without the loss of a single soldier from enemy action";

Whereas, On May 21, 1944, a commendation was issued

designating Francis Marion Hendley as a member of Admiral William F. "Bull" Halsey, Jr.'s "Fighting Team" ;

Whereas, On November 20, 1944, Major General Roy S. Geiger, U.S. Marine Corps Commanding, issued a commendation to Mr. Hendley's unit Boat Pool Eleven "for the outstanding conduct displayed in fighting a fire in the fuel dump on Puruate Island (Bougainville)...worked to the point of physical exhaustion to limit the loss of supplies in the fire that resulted from bombing by hostile aircraft merits the high esteem of the entire command";

Whereas, Francis Marion Hendley received a commendation from Oliver O. Kessing, Captain, Commanding Naval Base Torokina, for operations on November 29, 1943, stating: "The Commander Naval Base expresses his thanks and admiration for the outstanding work of Boat Pool Eleven in evacuating the paratrooper battalion. Every man involved showed the old navy guts and the example of each man is an inspiration to our fighting forces. Well Done.";

Whereas, Francis Marion Hendley operated a landing craft in invasions of Guadalcanal, America's first amphibious operations since 1898, to Bougainville and was honorably discharged October 10, 1945, with the rank of Boatswains Mate 2nd Class;

Whereas, Francis Marion Hendley was awarded numerous decorations, including the World War II Victory Medal, the Asiatic Pacific Campaign Medal with Three Battle Stars, the Combat Action Ribbon, the American Campaign Medal, the American Defense Service Medal with Fleet clasp, and the Coast Guard's Good Conduct Medal;

Whereas, Francis Marion Hendley married the former Martha Elizabeth Edmondson of Gainesville, Georgia, on February 10, 1945, while on leave from the Coast Guard, a union resulting in five children: Joyce Clarisse Todd of Raleigh, North Carolina; Patricia Ann Kitching of Norcross, Georgia; Reverend George Meredith Hendley of Dallas, Texas; Ginger Lynne Lanier of Naples, Florida; and Pastor Dan Dixon Hendley of Palm Bay, Florida;

Whereas, Francis Marion Hendley returned to work at the Louisville, Kentucky, office of the Gordon Foods Company, where he had began work in January 1937 as a salesman; he was sales supervisor at the time of his enlistment;

Whereas, Upon his return from the military, Francis Marion Hendley was promoted to district manager, organizing salesmen in the states of Indiana, Kentucky, and Tennessee;

Whereas, Francis Marion Hendley was instrumental in changing the company slogan from "Trucks Serving the South" to "Trucks Serving the Best";

Whereas, Francis Marion Hendley left Gordon Foods in 1952 and moved to Ocala, Florida, where he joined Graggs & Hendley Realtors in Silver Springs, first as a salesman and later as a partner;

Whereas, Francis Marion Hendley entered politics in 1964 as a candidate for the office of Marion County tax assessor but was defeated in the primary; in 1968, he waged a valiant campaign defending the "Homestead Exemption" but was defeated after a hard fight in the general election;

Whereas, Francis Marion Hendley was elected the first national president of The Hendley Family Association, Inc., on November 22, 1975, leading the association with honor and distinction during his term of office from 1976 to 1977, living up to the motto of the Hendley Family Association of "It is appropriate today that we pause to remember who we are, where we came from and what we have been taught" (Tennessee Governor Ned Ray McWherter, January 17, 1987);

Whereas, Francis Marion Hendley made many contributions to the business and public communities as a rancher, cattleman,

real estate broker, and salesman; he was a valiant sailor, public servant, and a dedicated family man;

Whereas, It was these attributes that led Lieutenant Governor John M. Mutz, under the authority of the Indiana Department of Commerce, to appoint him an Honorary Hoosier on April 6, 1982;

Whereas, Since his passing on November 15, 1986, Francis Marion Hendley has been honored by the legislatures of the seven states where he resided: Indiana 1989, Alabama 1991, Florida and Kentucky 1992, Georgia 1993, Tennessee and California 1994;

Whereas, U.S. Senator Richard G. Lugar paid tribute to Francis Marion Hendley from the U.S. Senate floor and a flag was flown over the U. S. Capitol in his honor; Sen. Lugar said "It is with pleasure that I offer this tribute to a loyal and true patriot who served his family and his country with great distinction." (Congressional Record February 24, 1995 Pages S3135 & S3136); Mayor William H. Hudnut, III, also praised Hendley as "a man of great influence and fortitude, and Indiana has felt his presence far beyond the years that he lived here," (August 23, 1988): Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana.:

SECTION 1. That the Indiana General Assembly commemorates the legacy of Mr. Francis Marion "Frank" Hendley, II, on the anniversary of his 90th birthday, 20 years since his passing and 30 years since he led The Hendley Family Association, Inc., as its first national president.

SECTION 2. That the Principal Clerk of the Indiana House of Representatives shall transmit copies of this resolution to: Mr. William H. Hendley, National President, The Hendley Family Association, Inc.; Mrs. Edith L. Kirk, Clan Elder, The William Meredith Hendley Clan; Mr. Donald E. Hendley, President, The William Meredith Hendley Clan; Ms. Lilly M. Eisenmenger, President, The Francis Marion Hendley Clan; and Pastor Dan D. Hendley, M. Div.

The resolution was read a first time and adopted by voice vote.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee reports are eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 23 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed House Bills 1452-1 and 1058-1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee reports are eligible for consideration after April 11 and that House Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 23 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed House Bills 1452-1 and 1058-1

PELATH, Chair

Motion prevailed.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee reports may be eligible for consideration after April 11, 2007: Engrossed Senate Bills 550-1 and 328-1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee report for Engrossed Senate Bills 550-1 and 328-1 are eligible for consideration after April 11, 2007.

PELATH

Motion prevailed.

Engrossed House Bill 1058-1

The conference committee report was reread. Roll Call 603: yeas 94, nays 1. Report adopted.

Representative Kuzman was excused.

Engrossed House Bill 1452-1

The conference committee report was reread. Roll Call 604: yeas 96, nays 0. Report adopted.

Engrossed Senate Bill 328-1

The conference committee report was reread. Roll Call 605: yeas 96, nays 0. Report adopted.

Engrossed Senate Bill 550-1

The conference committee report was reread. Roll Call 606: yeas 97, nays 0. Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee reports are eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 21 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed House Bills 1722-1 and 1731-1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee reports are eligible for consideration after April 11 and that House Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 21 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed House Bills 1722-1 and 1731-1.

PELATH, Chair

Motion prevailed.

Engrossed House Bill 1722-1

The conference committee report was reread. Roll Call 607: yeas 80, nays 15. Report adopted.

Representative Bosma was excused.

Engrossed House Bill 1731-1

The conference committee report was reread. Roll Call 608: yeas 95, nays 0. Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee reports are eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 20 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed Senate Bill 171-1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee reports are eligible for consideration after April 11 and that House Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 20 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed Senate Bill 171-1.

PELATH, Chair

Motion prevailed.

Engrossed Senate Bill 171-1

The conference committee report was reread. Roll Call 609: yeas 97, nays 0. Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee reports are eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 19 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed Senate Bills 103-1 and 261-1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee reports are eligible for consideration after April 11 and that House Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 19 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed Senate Bills 103-1 and 261-1.

PELATH, Chair

Motion prevailed.

Engrossed Senate Bill 103-1

The conference committee report was reread. Roll Call 610: yeas 89, nays 6. Report adopted.

Engrossed Senate Bill 261-1

The conference committee report was reread. Roll Call 611: yeas 42, nays 54. Report rejected.

CONFERENCE COMMITTEE REPORTS**CONFERENCE COMMITTEE REPORT**

ESB 128-1; filed April 27, 2007, at 2:27 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 128 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-10-5.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) Upon election to become a participant by any officer who is a member of the public employees' retirement fund, the board shall transfer all creditable service standing to the credit of the electing officer under the public employees' retirement fund to the credit of the electing officer under the retirement plan created by this chapter.

(b) Creditable service under this chapter, including credit for military service, shall accrue and be computed and credited to participants in the same manner and in the same amount as creditable service accrues, is computed and credited under the public employees' retirement law.

(c) In addition to creditable service computed under subsection (b), a participant is entitled to receive creditable service under this chapter for the time the participant receives disability benefits under a disability plan established under IC 5-10-8-7.

SECTION 2. IC 5-10-5.5-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7.5. (a) As used in this section, "board" refers to the board of trustees of the public employees' retirement fund established by IC 5-10.3-3-1.

(b) As used in this section, "public retirement fund" refers collectively to:

- (1) the public employees' retirement fund (IC 5-10.3);
- (2) the Indiana state teachers' retirement fund (IC 5-10.4);
- (3) the state police pension trust (IC 10-12); and
- (4) the 1977 police officers' and firefighters' pension and disability fund (IC 36-8-8).

(c) Subject to this section, a participant may purchase service credit for the participant's prior service in a position covered by a public retirement fund.

(d) To purchase the service credit described in subsection (c), a participant must meet the following requirements:

- (1) The participant has at least one (1) year of creditable service in the retirement plan created by this chapter.
- (2) The participant has not attained vested status in and is not an active participant in the public retirement fund from which the participant is purchasing the service credit.
- (3) Before the participant retires, the participant makes contributions to the retirement plan created by this chapter as follows:

(A) Contributions that are equal to the product of the following:

- (i) The participant's salary at the time the participant actually makes a contribution for the service credit.
- (ii) A rate, determined by the actuary for the retirement plan created by this chapter, based on the age of the participant at the time the participant actually makes a contribution for service credit and computed to result in a

contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the participant intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the retirement plan created by this chapter, for the period from the participant's initial participation in the retirement plan created by this chapter to the date payment is made by the participant.

(e) At the request of the participant purchasing service credit under this section, the amount a participant is required to contribute under subsection (d)(3) may be reduced by a trustee to trustee transfer from a public retirement fund in which the participant has an account that contains amounts attributable to member contributions (plus any credited earnings) to the retirement plan created by this chapter. The participant may direct the transfer of an amount only to the extent necessary to fund the service purchase under subsection (d)(3). The participant shall complete any forms required by the public retirement fund from which the participant is requesting a transfer or the retirement plan created by this chapter before the transfer is made.

(f) At least ten (10) years of service in the retirement plan created by this chapter is required before a participant may receive a benefit based on service credit purchased under this section.

(g) A participant who:

- (1) terminates employment before satisfying the eligibility requirements necessary to receive an annual retirement allowance; or
- (2) receives an annual retirement allowance for the same service from another tax supported governmental retirement plan other than under the federal Social Security Act;

may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the retirement plan created by this chapter.

(h) The following may apply to the purchase of service credit under this section:

- (1) The board may allow a participant to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.
- (2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.
- (3) A participant may not claim the service credit for purposes of determining eligibility for a benefit or computing benefits unless the participant has made all payments required for the purchase of the service credit.

(i) To the extent permitted by the Internal Revenue Code and applicable regulations, the retirement plan created by this chapter may accept, on behalf of a participant who is purchasing permissive service credit under this chapter, a rollover of a distribution from any of the following:

- (1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.
- (2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(j) To the extent permitted by the Internal Revenue Code and applicable regulations, the retirement plan created by this chapter may accept, on behalf of a participant who is purchasing permissive service credit under this chapter, a trustee to trustee transfer from any of the following:

- (1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 3. IC 5-10-5.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) **Except as provided in subsection (c), every participant shall contribute three four percent (3%) (4%) of the first eight thousand five hundred dollars (\$8,500) of his participant's annual salary to the participants' savings fund.**

(b) Contributions shall be made in the form of payroll deductions from each and every payment of salary received by the participant. Every participant shall, as a condition precedent to his becoming a participant, consent to the payroll deductions.

(c) **An employer may pay all or a part of the contributions for the participant. All contributions made by an employer under this subsection shall be treated as pick-up contributions under Section 414(h)(2) of the Internal Revenue Code.**

SECTION 4. IC 5-10-5.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) Benefits provided under this section are subject to section 2.5 of this chapter.

(b) The annual retirement allowance of a participant, payable in equal monthly installments beginning on **his the participant's** normal retirement date, shall be a percentage of **his the participant's** average annual salary, such percentage to be twenty-five percent (25%) increased by one and two-thirds percent (1 2/3%) of **his the participant's** average annual salary for each completed year of creditable service more than ten (10) years. **and one percent (1%) of his average annual salary for each completed year of creditable service more than twenty-five (25) years.**

(c) The annual retirement allowance shall cease with the last monthly payment prior to the death of the participant.

SECTION 5. IC 5-10-5.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) Any participant who has attained the age of forty-five (45) years and has accrued at least fifteen (15) years of creditable service may retire and become eligible for benefits as provided in section 12(a) of this chapter.

(b) If:

- (1) a participant is at least fifty-five (55) years of age; and
- (2) the sum of the participant's years of creditable service and age in years equals at least eighty-five (85);

the participant may retire and become eligible for benefits as provided in section 12(b) of this chapter.

(c) A participant who:

- (1) is at least fifty (50) years of age; and
- (2) has accrued at least twenty-five (25) years of creditable service;

may retire and become eligible for benefits under section 12(b) of this chapter.

SECTION 6. IC 5-10-5.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) The amount of annual retirement allowance payable in equal monthly installments to a participant who retires under section 11(a) of this chapter (relating to early retirement) shall be determined in accordance with section 10(a) of this chapter (relating to normal retirement). However, the amount of annual retirement allowance otherwise payable upon early retirement shall be reduced by

one-quarter percent (1/4%) for each full month that the date of early retirement precedes the attainment of the participant's sixtieth birthday.

(b) The amount of annual retirement allowance payable in equal monthly installments to a participant who retires under section 11(b) or 11(c) of this chapter (relating to early retirement) shall be determined in accordance with section 10(a) of this chapter (relating to normal retirement).

SECTION 7. IC 5-10-5.5-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13.5. (a) This section applies to participants whose disability occurred after June 30, 1987.

(b) Benefits provided under this section are subject to section 2.5 of this chapter.

(c) As used in this section, a disability is to be considered to have arisen in the line of duty if the disability is the direct result of:

- (1) a personal injury that occurs while the participant is on duty; or
- (2) a personal injury that occurs while the participant is off duty and responding to an offense or an emergency or a reported offense or emergency;

or if the disability is presumed incurred in the line of duty under IC 5-10-13.

(d) A participant whose disability arose in the line of duty is entitled to a monthly benefit equal to the participant's monthly salary on the date of disability multiplied by the degree of impairment (expressed as a percentage impairment of the person as a whole). However, the monthly benefit under this subsection must be at least:

- (1) twenty percent (20%) of the participant's monthly salary on the date of the disability if the participant has more than five (5) years of service; or
- (2) ten percent (10%) of the participant's monthly salary on the date of the disability if the participant has five (5) or fewer years of service.

(e) A participant whose disability did not arise in the line of duty is entitled to a monthly benefit equal to one-half (½) of the participant's monthly salary on the date of disability multiplied by the degree of impairment (expressed as a percentage of the person as a whole). However, the monthly benefit under this subsection must be at least:

- (1) ten percent (10%) of the participant's monthly salary on the date of the disability if the participant has more than five (5) years of service; or
- (2) five percent (5%) of the participant's monthly salary on the date of the disability if the participant has five (5) or fewer years of service.

(f) A participant who is receiving a disability benefit under subsection (d) is entitled:

- (1) to receive a disability benefit for the remainder of the participant's life; and**
- (2) to have the participant's benefit recomputed under section 10 of this chapter (relating to normal retirement) when the participant becomes sixty (60) years of age.**

SECTION 8. IC 33-38-7-18, AS AMENDED BY HEA 1480-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) This section applies to a person who:

- (1) is a judge participating under this chapter;
- (2) was appointed by a court to serve as a full-time referee, full-time commissioner, or full-time magistrate either:
 - (A) before becoming a judge; or
 - (B) after leaving an elected term on the bench;
- (3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and
- (4) received credited service under the public employees' retirement fund for the employment described in

subdivision (2).

(b) If a person becomes a participant in the judges' 1977 benefit system under section 1 of this chapter, credit for prior or subsequent service by the judge as a full-time referee, full-time commissioner, or full-time magistrate shall be granted under this chapter by the board if:

- (1) the ~~prior~~ service was credited under the public employees' retirement fund;
- (2) the state contributes to the judges' 1977 benefit system the amount the board determines necessary to amortize the ~~prior~~ service liability over a period determined by the board, but not more than ten (10) years; and
- (3) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount the judge would have contributed if the judge had been a member of the judges' 1977 benefit system during the ~~prior~~ service.

(c) If the requirements of subsection (b)(2) and (b)(3) are not satisfied, a participant is entitled to credit only for years of service ~~after the date of participation~~ **earned as a judge** in the 1977 benefit system.

(d) An amortization schedule for contributions paid under subsection (b)(2) or (b)(3) must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

(1) A minimum benefit applies to participants receiving credit in the judges' 1977 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age and equals the actuarial equivalent of the vested retirement benefit that is:

- (A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and
- (B) based solely on:

- (i) creditable service;
- (ii) the average of the annual compensation; and
- (iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b)(2) and (b)(3) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1977 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(3) The amount the state and the participant must contribute to the judges' 1977 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1977 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b)(2) and (b)(3) are satisfied, credit for ~~prior~~ service in the public employees' retirement fund as a full-time referee, full-time commissioner, or full-time magistrate is waived. Any credit for the ~~prior~~ service under the judges' 1977 benefit system may be granted only under subsection (b).

(5) Credit ~~for prior service~~ in the public employees' retirement fund for service other than as a full-time referee, full-time commissioner, or full-time magistrate remains under the public employees' retirement fund and may not be credited under the judges' 1977 benefit system.

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

- (1) A qualified plan described in Section 401(a) or Section

403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 9. IC 36-8-8-7.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7.2. (a) This section applies to an individual:**

(1) who becomes a member of the 1977 fund under section 7(h) of this chapter;

(2) whose appointment as a fire chief or police chief ends after June 30, 2007; and

(3) who is not eligible to receive a benefit from the 1977 fund at the end of the individual's appointment as a fire chief or police chief.

(b) A fund member described in subsection (a) may elect:

(1) to receive the fund member's contributions to the 1977 fund under section 8 of this chapter; or

(2) to transfer the fund member's service credit earned as a fire chief or police chief to PERF under subsection (c).

(c) If a fund member makes the election described in subsection (b)(2), the PERF board shall:

(1) grant to the fund member service credit in PERF for all service earned as a fire chief or police chief in the 1977 fund; and

(2) transfer from the 1977 fund to PERF:

(A) the fund member's contributions made during the fund member's appointment as a fire chief or police chief to the 1977 fund; plus

(B) the present value of the unreduced benefit that would be payable to the transferring fund member upon retirement under section 10 of this chapter.

(d) The PERF board shall deposit the amounts transferred to PERF under subsection (c) as follows:

(1) The fund member's contributions to the 1977 fund shall be credited to the fund member's PERF annuity savings account.

(2) The present value of the unreduced benefit that would be payable to the transferring fund member upon retirement under section 10 of this chapter shall be credited to PERF's retirement allowance account.

(e) For a fund member who makes the election described in subsection (b)(2), all credit for service as a fire chief or police chief in the 1977 fund is waived.

SECTION 10. IC 36-8-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8. (a)** Each fund member shall contribute during the period of ~~his the fund member's~~ employment or for thirty-two (32) years, whichever is shorter, an amount equal to six percent (6%) of the salary of a first class patrolman or firefighter. However, the employer may pay all or a part of the contribution for the member. The amount of the contribution, other than contributions paid on behalf of a member, shall be deducted each pay period from each fund member's salary by the disbursing officer of the employer. The

employer shall send to the PERF board each year on March 31, June 30, September 30, and December 31, for the calendar quarters ending on those dates, a certified list of fund members and a warrant issued by the employer for the total amount deducted for fund members' contributions.

(b) **Except as provided in section 7.2 of this chapter**, if a fund member ends ~~his the fund member's~~ employment other than by death or disability before ~~he the fund member~~ completes twenty (20) years of active service, the PERF board shall return to ~~him the fund member~~ in a lump sum ~~his the fund member's~~ contributions plus interest as determined by the PERF board. If the fund member returns to service, ~~he the fund member~~ is entitled to credit for the years of service for which ~~his the fund member's~~ contributions were refunded if ~~he the fund member~~ repays the amount refunded to ~~him the fund member~~ in either a lump sum or a series of payments determined by the PERF board.

SECTION 11. IC 36-8-10-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 13. Except as provided in section 19 of this chapter**, a sheriff may participate in the pension trust in the same manner as a county police officer. In addition, a sheriff who is not participating in the pension trust after the creation of the pension trust in ~~his the sheriff's~~ county may make a payment to the pension trust in the amount of contributions ~~he the sheriff~~ would have made had ~~he the sheriff~~ been participating while a sheriff, plus interest at three percent (3%) compounded annually. The sheriff is entitled to credit for the years of service as a sheriff for all purposes of the pension trust if ~~he the sheriff~~ makes this payment.

SECTION 12. IC 36-8-10-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 19. (a) Except as provided in subsection (c)**, a person entitled to ~~a an~~ interest in or share of a pension or benefit from the trust funds may not, before the actual payment, anticipate it or sell, assign, pledge, mortgage, or otherwise dispose of or encumber it. In addition, the interest, share, pension, or benefit is not, before the actual payment, liable for the debts or liabilities of the person entitled to it, nor is it subject to attachment, garnishment, execution, levy, or sale on judicial proceedings, or transferable, voluntarily or involuntarily.

(b) The trustee may expend the sums from the fund that it considers proper for necessary expenses.

(c) **This subsection does not apply to the sheriff of a county. Notwithstanding any other provision of this chapter**, an employee beneficiary who is receiving a normal or disability monthly pension benefit under this chapter may, after June 30, 2007, authorize the trustee to pay a portion of the employee beneficiary's monthly pension benefit to an insurance provider for the purpose of paying a premium on a policy of insurance for accident, health, or long term care coverage for:

(1) the employee beneficiary;

(2) the employee beneficiary's spouse; or

(3) the employee beneficiary's dependents (as defined in Section 152 of the Internal Revenue Code).

SECTION 13. P.L.29-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **SECTION 4. (a)** As used in this SECTION, "PERF board" refers to the public employees' retirement fund board of trustees established by IC 5-10-3-1.

(b) As used in this SECTION, "fund" refers to the fund for the defined contribution plan of the legislators' retirement system established by IC 2-3.5-3-2.

(c) Beginning January 1, 2004, the PERF board shall conduct a pilot program concerning:

(1) the implementation of a member's investment selection; and

(2) the crediting of a member's contributions and earnings; for the fund.

(d) The pilot program referred to in subsection (c) must include the following elements:

(1) Notwithstanding IC 2-3.5-5-3(b)(2), the PERF board shall implement a member's selection under IC 2-3.5-5-3 not later than the next business day following receipt of the member's selection by the PERF board. This date is the effective date of the member's selection.

(2) Notwithstanding IC 2-3.5-5-3(b)(7), all contributions to a member's account in the fund must be allocated under IC 2-3.5-5-3 not later than the last day of the quarter in which the contributions are received and reconciled in accordance with the member's most recent effective direction.

(3) Notwithstanding IC 2-3.5-5-3(c) and IC 2-3.5-5-3(d), when a member retires, becomes disabled, dies, or withdraws from the fund, the amount credited to the member is the market value of the member's investment as of five (5) business days preceding the member's distribution or annuitization at retirement, disability, death, or withdrawal, plus contributions received after that date.

(4) Notwithstanding IC 2-3.5-5-4, contributions to the fund under IC 2-3.5-5-4 must be credited to the fund not later than the last day of the quarter in which the contributions were deducted.

(5) Notwithstanding IC 2-3.5-5-5 (before its repeal on January 1, 2009) or IC 2-3.5-5-5.5, the state shall make contributions under IC 2-3.5-5-5 (before its repeal on January 1, 2009) or IC 2-3.5-5-5.5 to the fund not later than the last day of each quarter. ~~The Contributions made by the state before January 1, 2009,~~ must equal twenty percent (20%) of the annual salary received by each participant during that quarter. **After December 31, 2008, the amount of the state's contributions is determined under IC 2-3.5-5-5.**

(e) Before November 1 ~~2006~~, of each year, the PERF board shall report to the pension management oversight commission established by IC 2-5-12 the results of the pilot program referred to in subsection (c) and shall recommend proposed legislation if the report includes a finding that the pilot program should be implemented on a permanent basis. If the PERF board recommends implementing the pilot program on a permanent basis, the PERF board shall provide to the pension management oversight commission a schedule to implement the elements of the pilot program on a permanent basis for all funds for which it has responsibility.

(f) This SECTION expires July 1, ~~2007~~ 2010.

SECTION 14. [EFFECTIVE JULY 1, 2007] **IC 5-10-5.5-7.5, as added by this act, and IC 5-10-5.5-8, as amended by this act, apply after June 30, 2007, to active participants in the state excise police, gaming agent, and conservation enforcement officers' retirement plan established by IC 5-10-5.5-2.**

SECTION 15. [EFFECTIVE JULY 1, 2007] **IC 5-10-5.5-10, IC 5-10-5.5-11, and IC 5-10-5.5-12, all as amended by this act, apply to participants of the state excise police, gaming agent, and conservation enforcement officers' retirement plan established by IC 5-10-5.5-2 who retire after June 30, 2007.**

SECTION 16. [EFFECTIVE JULY 1, 2007] **IC 5-10-5.5-7 and IC 5-10-5.5-13.5, both as amended by this act, apply to participants of the state excise police, gaming agent, and conservation enforcement officers' retirement plan established by IC 5-10-5.5-2 who become disabled after June 30, 2007.**

(Reference is to ESB 128 as reprinted March 21, 2007.)

M. YOUNG	TYLER
DEIG	BUELL
Senate Conferees	House Conferees

The conference committee report was filed and read a first

time.

CONFERENCE COMMITTEE REPORT
ESB 520-1; filed April 27, 2007, at 2:51 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 520 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-2-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. Criminal intelligence information is hereby declared confidential and may be disseminated only to ~~another criminal justice agency~~; **in accordance with section 7 of this chapter**, and only if the agency making the dissemination is satisfied that the need to know and intended uses of the information are reasonable and that the confidentiality of the information will be maintained.

SECTION 2. IC 5-2-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. **(a) Except as provided in subsection (b), a person who knowingly releases criminal intelligence information to an agency or person other than a criminal justice agency commits a Class A misdemeanor.**

(b) When necessary to avoid imminent danger to life or property, a criminal justice agency may disseminate an assessment of criminal intelligence information to:

(1) a government official; or

(2) another individual:

(A) whose life or property is in imminent danger;

(B) who is responsible for protecting the life or property of another person; or

(C) who may be in a position to reduce or mitigate the imminent danger to life or property.

SECTION 3. IC 5-2-6-3, AS AMENDED BY P.L.173-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. The institute is established to do the following:

(1) Evaluate state and local programs associated with:

(A) the prevention, detection, and solution of criminal offenses;

(B) law enforcement; and

(C) the administration of criminal and juvenile justice.

(2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.

(3) Stimulate criminal and juvenile justice research.

(4) Develop new methods for the prevention and reduction of crime.

(5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.

(6) Administer victim and witness assistance funds.

(7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.

(8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.

(9) Serve as the criminal justice statistical analysis center for this state.

(10) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex offender registration under IC 11-8-8.

(11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.

(12) Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

(13) Establish, maintain, and operate, subject to specific appropriation by the general assembly, a web site containing a list of properties (as defined in IC 5-2-6-19(b)) that have been used as the site of a methamphetamine laboratory.

SECTION 4. IC 5-2-6-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) As used in this section, "institute" refers to the Indiana criminal justice institute established by section 3 of this chapter.

(b) As used in this section, "property" refers to a structure or part of a structure that is used as a home, residence, or sleeping unit.

(c) Subject to specific appropriation by the general assembly, the institute shall establish, maintain, and operate a web site containing a list of properties that have been used as the site of a methamphetamine laboratory. The list of properties shall be based on information received from a law enforcement agency under IC 5-2-15-3.

(d) Subject to specific appropriation by the general assembly and in accordance with subsections (h) and (i), the institute shall publish the list of properties that have been used as the site of a methamphetamine laboratory on a web site maintained by the institute. The institute shall design the web site to enable a user to easily determine whether a particular property has been used as the site of a methamphetamine laboratory. The web site shall be referred to as the "methamphetamine laboratory web site".

(e) The institute shall remove a listed property from the web site after the property has been certified as decontaminated by an inspector approved under IC 13-14-1-15 or not more than two (2) years after the date the methamphetamine laboratory was seized by a law enforcement agency.

(f) Notwithstanding subsection (c), if property has been certified as decontaminated by an inspector approved under IC 13-14-1-15 before it is placed on the list required under subsection (c), the institute may not place the property on the list.

(g) Records concerning a listed property that has been removed from the web site under subsection (e) are confidential.

(h) This subsection only applies to a rental unit (as defined in IC 32-31-3-8). The institute may not list a rental unit that has been used as the site of a methamphetamine laboratory on the web site until the later of the following:

(1) Thirty (30) days after the date on which the institute receives information from a law enforcement agency under IC 5-2-15-3 that the rental unit has been the site of a methamphetamine laboratory, if the owner or operator of the rental property has not provided documentation to the institute showing:

(A) that the property has been inspected by a person certified to inspect property that is polluted by a contaminant under IC 13-14-1-15; and

(B) that the owner or operator has begun the process of decontaminating the property.

(2) If the owner or operator of the rental unit provides the documentation described in subdivision (1)(A) and (1)(B) not later than thirty (30) days after the date on which the institute receives information from a law enforcement agency under IC 5-2-15-3 that the rental unit has been the site of a methamphetamine laboratory, one hundred eighty (180) days after the date on which the institute receives information from a law enforcement agency that the rental unit has been the site of a methamphetamine laboratory.

However, if the owner or operator provides documentation to the institute within the appropriate time period described in subdivision (1) or (2) that a person authorized to inspect property that is polluted by a contaminant under IC 13-14-1-15 has certified that the property is decontaminated or was not contaminated by a methamphetamine laboratory, the institute may not list the property on the web site.

(i) This subsection only applies to a rental unit (as defined in IC 32-31-3-8). The institute shall remove a rental unit listed on the web site not more than five (5) days after receiving documentation from the owner or operator of the rental property that:

(1) the property has been inspected by a person certified to inspect property that is polluted by a contaminant under IC 13-14-1-15; and

(2) that the owner or operator has begun the process of decontaminating the property.

The institute shall relist the rental unit on the web site not less than one hundred fifty (150) days after receiving documentation described in subdivisions (1) and (2), unless the owner or operator of the rental property provides documentation to the institute that a person authorized to inspect property that is polluted by a contaminant under IC 13-14-1-15 has certified that the property is decontaminated or was not contaminated by a methamphetamine laboratory.

SECTION 5. IC 5-2-6-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) The institute shall:

(1) attempt to obtain federal funds to establish and operate a methamphetamine precursor data base pilot project under this section; and

(2) if the institute obtains sufficient federal funds under subdivision (1), operate and maintain the pilot project.

(b) A pilot project established under this section must connect persons who:

(1) sell a drug that contains the active ingredient of ephedrine or pseudoephedrine, or both; and

(2) record drug sales information in an electronic log under IC 35-48-4-14.7(c);

to an electronic monitoring system that transfers the drug sales information to a central data base at the same time the drug sales information is recorded in the electronic log. Drug sales information may be transferred to the central data base from not more than six (6) counties under a pilot project established under this section.

(c) Only a law enforcement officer who has the right to inspect and copy a log or the records from the completion of a log under IC 35-48-4-14.7(c) may have access to information stored in the central data base described in subsection (b). A person may not sell or release information in the central data base for a commercial purpose.

(d) Information stored in a central data base established under this section must be retained until June 30, 2012.

(e) This section expires June 30, 2012.

SECTION 6. IC 5-2-15-3, AS ADDED BY P.L.192-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. A law enforcement agency that terminates the operation of a methamphetamine laboratory shall report the existence and location of the methamphetamine laboratory to:

(1) the state police department;

(2) the local fire department that serves the area in which the methamphetamine laboratory is located; ~~and~~

(3) the county health department or, if applicable, multiple county health department of the county in which the methamphetamine laboratory is located; ~~and~~

(4) the Indiana criminal justice institute;

on a form and in the manner prescribed by guidelines adopted by

the superintendent of the state police department under IC 10-11-2-31.

SECTION 7. IC 10-11-2-31, AS ADDED BY P.L.192-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 31. (a) The superintendent shall adopt:

- (1) guidelines; and
- (2) a reporting form or a specified electronic format, or both;

for the report of a methamphetamine laboratory by a law enforcement agency under IC 5-2-15-3.

(b) The guidelines adopted under this section must require a law enforcement agency to report the existence of a methamphetamine laboratory to:

- (1) the department;
- (2) the local fire department that serves the area in which the methamphetamine laboratory is located; ~~and~~
- (3) the county health department or, if applicable, multiple county health department of the county in which the methamphetamine laboratory is located; ~~and~~
- (4) the Indiana criminal justice institute;**

on the form or in the specified electronic format adopted by the superintendent.

(c) The guidelines adopted under this section:

- (1) may incorporate a recommendation of the methamphetamine abuse task force (IC 5-2-14) that the superintendent determines to be relevant;
- (2) may require the department to report the existence of the methamphetamine laboratory to one (1) or more additional agencies or organizations;
- (3) must require the department to maintain reports filed under IC 5-2-15-3 in a manner permitting an accurate assessment of:
 - (A) the number of methamphetamine laboratories located in Indiana in a specified period;
 - (B) the geographical dispersal of methamphetamine laboratories located in Indiana in a specified period; and
 - (C) any other information that the superintendent determines to be relevant; and
- (4) must require a law enforcement agency to report any other information that the superintendent determines to be relevant.

SECTION 8. IC 32-21-5-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.5. **As used in this chapter, "methamphetamine laboratory web site" means the list of properties that have been used as the site of a methamphetamine laboratory that is published on the Internet web site maintained by the Indiana criminal justice institute under IC 5-2-6-19.**

SECTION 9. IC 35-48-4-14.7, AS AMENDED BY P.L.151-2006, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14.7. (a) This section does not apply to the following:

- (1) Ephedrine or pseudoephedrine dispensed pursuant to a prescription.
- (2) The sale of a drug containing ephedrine or pseudoephedrine to a licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, or an agent of any of these persons if the sale occurs in the regular course of lawful business activities. However, a retail distributor, wholesaler, or manufacturer is required to report a suspicious order to the state police department in accordance with subsection (f).
- (3) The sale of a drug containing ephedrine or pseudoephedrine by a person who does not sell exclusively to walk-in customers for the personal use of the walk-in customers. However, if the person described in this subdivision is a retail distributor, wholesaler, or

manufacturer, the person is required to report a suspicious order to the state police department in accordance with subsection (f).

(b) The following definitions apply throughout this section:

(1) "Constant video monitoring" means the surveillance by an automated camera that:

- (A) records at least one (1) photograph or digital image every ten (10) seconds;
- (B) retains a photograph or digital image for at least seventy-two (72) hours;
- (C) has sufficient resolution and magnification to permit the identification of a person in the area under surveillance; and
- (D) stores a recorded photograph or digital image at a location that is immediately accessible to a law enforcement officer.

(2) "Convenience package" means a package that contains a drug having as an active ingredient not more than one hundred twenty (120) milligrams of ephedrine or pseudoephedrine, or both.

(3) "Ephedrine" means pure or adulterated ephedrine.

(4) "Pseudoephedrine" means pure or adulterated pseudoephedrine.

(5) "Suspicious order" means a sale or transfer of a drug containing ephedrine or pseudoephedrine if the sale or transfer:

- (A) is a sale or transfer that the retail distributor, wholesaler, or manufacturer is required to report to the United States Drug Enforcement Administration;
- (B) appears suspicious to the retail distributor, wholesaler, or manufacturer in light of the recommendations contained in Appendix A of the report to the United States attorney general by the suspicious orders task force under the federal Comprehensive Methamphetamine Control Act of 1996; or
- (C) is for cash or a money order in a total amount of at least two hundred dollars (\$200).

(6) "Unusual theft" means the theft or unexplained disappearance from a particular retail store of drugs containing ten (10) grams or more of ephedrine, pseudoephedrine, or both in a twenty-four (24) hour period.

(c) This subsection does not apply to a convenience package. A person may sell a drug that contains the active ingredient of ephedrine, pseudoephedrine, or both only if the person complies with the following conditions:

- (1) The person does not sell the drug to a person less than eighteen (18) years of age.
- (2) The person does not sell drugs containing more than three (3) grams of ephedrine or pseudoephedrine, or both in one (1) transaction.
- (3) The person requires:
 - (A) the purchaser to produce a state or federal identification card;
 - (B) the purchaser to complete a paper or an electronic log in a format approved by the state police department with the purchaser's name, address, and driver's license or other identification number; and
 - (C) the clerk who is conducting the transaction to initial or electronically record the clerk's identification on the log.

Records from the completion of a log must be retained for at least two (2) years. A law enforcement officer has the right to inspect and copy a log or the records from the completion of a log in accordance with state and federal law. A person may not sell or release a log or the records from the completion of a log for a commercial purpose. The Indiana criminal justice institute may obtain information concerning a log or the records from the completion of a log from a law enforcement officer if the

information may not be used to identify a specific individual and is used only for statistical purposes. A retailer who in good faith releases information maintained under this subsection is immune from civil liability unless the release constitutes gross negligence or intentional, wanton, or willful misconduct. This subdivision expires June 30, ~~2008~~ 2012.

(4) The person stores the drug:

(A) behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to a customer without the assistance of an employee; or

(B) directly in front of the pharmacy counter in the direct line of sight of an employee at the pharmacy counter, in an area under constant video monitoring, if the drug is sold in a retail establishment that:

(i) is a pharmacy; or

(ii) contains a pharmacy that is open for business.

(d) A person may not purchase drugs containing more than three (3) grams of ephedrine, pseudoephedrine, or both in one (1) week.

(e) This subsection only applies to convenience packages. A person may not sell drugs containing more than one hundred twenty (120) milligrams of ephedrine or pseudoephedrine, or both in any one (1) transaction if the drugs are sold in convenience packages. A person who sells convenience packages must secure the convenience packages in at least one (1) of the following ways:

(1) The convenience package must be stored not more than thirty (30) feet away from a checkout station or counter and must be in the direct line of sight of an employee at the checkout station or counter.

(2) The convenience package must be protected by a reliable anti-theft device that uses package tags and detection alarms designed to prevent theft.

(3) The convenience package must be stored in restricted access shelving that permits a purchaser to remove not more than one (1) package every fifteen (15) seconds.

(4) The convenience package must be stored in an area that is under constant video monitoring, and a sign placed near the convenience package must warn that the area is under constant video monitoring.

(f) A retail distributor, wholesaler, or manufacturer shall report a suspicious order to the state police department in writing.

(g) Not later than three (3) days after the discovery of an unusual theft at a particular retail store, the retailer shall report the unusual theft to the state police department in writing. If three (3) unusual thefts occur in a thirty (30) day period at a particular retail store, the retailer shall, for at least one hundred eighty (180) days after the date of the last unusual theft, locate all drugs containing ephedrine or pseudoephedrine at that particular retail store behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to customers without the assistance of an employee.

(h) A unit (as defined in IC 36-1-2-23) may not adopt an ordinance after February 1, 2005, that is more stringent than this section.

(i) A person who knowingly or intentionally violates this section commits a Class C misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction under this section.

(j) Before June 30, 2007, the state police department shall submit a report to the legislative council detailing the effectiveness of this section in reducing the illicit production of methamphetamine. The report must describe the number of arrests or convictions that are attributable to the identification and logging requirements contained in this section, and must include recommendations for future action. The report must be

in an electronic format under IC 5-14-6

(Reference is to ESB 520 as printed April 6, 2007.)

M. YOUNG

VAN HAAFTEN

LANANE

TORR

Senate Conferees

House Conferees

The conference committee report was filed and read a first time.

OTHER BUSINESS ON THE SPEAKER'S TABLE

Representative Pelath announced a meeting of the Committee on Rules and Legislative Procedures to consider conference committee reports.

Representative Cheney announced that April 28 is Workers Memorial Day. The House stood for a moment of silence in memory of the 97 workers who were killed in the workplace in 2006.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 4:40 p p.m. with the Speaker Pro Tempore, Representative Dobis, in the Chair.

Representatives Kuzman and Bosma, who had been excused, were present. Representatives C. Brown, L. Lawson, and Mays were excused.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 1 on Engrossed House Bills 1058, 1116, 1452, 1457, and 1663.

MARY C. MENDEL

Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report 1 on Engrossed Senate Bills 103, 104, 157, 171, and 550.

MARY C. MENDEL

Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has concurred in the House amendments to Engrossed Senate Bill 334.

MARY C. MENDEL

Principal Secretary of the Senate

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT

ESB 330-2; filed April 27, 2007, at 3:03 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 330 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 20-26-11-8, AS AMENDED BY SEA 94-2007, SECTION 170, IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) A student who is placed in a state licensed private or public health care facility ~~or child care facility; or foster family home:~~

- (1) by or with the consent of the department of child services;
- (2) by a court order; or
- (3) by a child placing agency licensed by the department of child services;

may attend school in the school corporation in which the ~~home~~ ~~or~~ facility is located. If the school corporation in which the ~~home~~ ~~or~~ facility is located is not the school corporation in which the student has legal settlement, the school corporation in which the student has legal settlement shall pay the transfer tuition of the student.

(b) A student who is placed in a state licensed private or public health care or child care facility by a parent may attend school in the school corporation in which the facility is located if:

- (1) the placement is necessary for the student's physical or emotional health and well-being and, if the placement is in a health care facility, is recommended by a physician; and
- (2) the placement is projected to be for not less than fourteen (14) consecutive calendar days or a total of twenty (20) calendar days.

The school corporation in which the student has legal settlement shall pay the transfer tuition of the student. The parent of the student shall notify the school corporation in which the facility is located and the school corporation of the student's legal settlement, if identifiable, of the placement. Not later than thirty (30) days after this notice, the school corporation of legal settlement shall either pay the transfer tuition of the transferred student or appeal the payment by notice to the department. The acceptance or notice of appeal by the school corporation must be given by certified mail to the parent or guardian of the student and any affected school corporation. In the case of a student who is not identified as having a disability under IC 20-35, the state board shall make a determination on transfer tuition according to the procedures in section 15 of this chapter. In the case of a student who has been identified as having a disability under IC 20-35, the determination on transfer tuition shall be made under this subsection and the procedures adopted by the state board under IC 20-35-2-1(b)(5).

(c) A student who is placed in:

- (1) an institution operated by the division of disability and rehabilitative services or the division of mental health and addiction; or
- (2) an institution, a public or private facility, a home, a group home, or an alternative family setting by the division of disability and rehabilitative services or the division of mental health and addiction;

may attend school in the school corporation in which the institution is located. The state shall pay the transfer tuition of the student, unless another entity is required to pay the transfer tuition as a result of a placement described in subsection (a) or (b) or another state is obligated to pay the transfer tuition.

(d) This subsection applies to a student who is placed:

- (1) by or with the consent of the department of child services;**
- (2) by a court order; or**
- (3) by a child placing agency licensed by the department of child services;**

in a foster family home or the home of a relative or other unlicensed caretaker that is not located in the school corporation in which the student has legal settlement. The student may attend school in either the school corporation in which the foster family home or other home is located or the school corporation in which the student has legal settlement. The department of child services and the student's foster parents or caretaker shall make the determination

concerning where the student attends school unless that determination is made by a court that has jurisdiction over the student. If a licensed child placing agency is responsible for oversight of the foster family home in which the student is placed or for providing services to the student, the department of child services must consult with the licensed child placing agency concerning the determination of, or the recommendations made to the court concerning, where the student attends school. Except as provided in subsection (e), transfer tuition is not required for the student.

(e) If a student to whom subsection (d) applies is attending school in a school corporation that is not the school corporation in which the student has legal settlement, the school corporation in which the student has legal settlement shall pay transfer tuition to the school corporation in which the student is enrolled in school if all of the following conditions apply:

- (1) The student was previously placed in a child caring institution licensed under IC 31-27-3.**
- (2) While placed in the child caring institution, the student was enrolled in a school that is:**
 - (A) administered by the school corporation in which the child caring institution is located; and**
 - (B) located at the child caring institution.**
- (3) The student was moved from the child caring institution to a licensed foster family home supervised by the child caring institution either:**
 - (A) with the approval of the department of child services and the court having jurisdiction over the student in a case under IC 31-34; or**
 - (B) by a court order in a case under IC 31-37.**
- (4) After moving from the child caring institution to the foster family home, the student continues to attend the school located at the child caring institution.**
- (5) The legal settlement of the student was determined by a juvenile court under IC 31-34-20-5, IC 31-34-21-10, IC 31-37-19-26, or IC 31-37-20-6.**

~~(f)~~ **(f) A student:**

- (1) who is placed in a facility, home, or institution described in subsection (a), (b), or (c); and**
- (2) to whom neither subsection (d) nor (e) applies; and**
- ~~(2)~~ **(3) for whom there is no other entity or person required to pay transfer tuition;**

may attend school in the school corporation in which the facility, home, or institution is located. The department shall conduct an investigation and determine whether any other entity or person is required to pay transfer tuition. If the department determines that no other entity or person is required to pay transfer tuition, the state shall pay the transfer tuition for the student out of the funds appropriated for tuition support.

SECTION 2. IC 20-26-11-11, AS AMENDED BY SEA 94-2007, SECTION 171, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) A school corporation may enter into an agreement with:

- (1) a nonprofit corporation that operates a federally approved education program; or
- (2) a nonprofit corporation that:
 - (A) is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;
 - (B) for its classroom instruction, employs teachers who are certified by the department;
 - (C) employs other professionally and state licensed staff as appropriate; and
 - (D) educates children who:
 - (i) have been suspended, expelled, or excluded from a public school in that school corporation and have been found to have an emotional disturbance;
 - (ii) have been placed with the nonprofit corporation by court order;
 - (iii) have been referred by a local health department;

or

(iv) have been placed in a state licensed private or public health care or child care facility as described in ~~section 8(b)~~ **section 8** of this chapter; or

(v) have been placed by or with the consent of the department under IC 20-35-6-2;

in order to provide a student with an individualized education program that is the most suitable educational program available.

(b) If a school corporation that is a transferee corporation enters into an agreement as described in subsection (a), the school corporation shall pay to the nonprofit corporation an amount agreed upon ~~from the transfer tuition of the student. The amount agreed upon that~~ may not exceed the **total of:**

(1) the transfer tuition costs for the student that otherwise would be payable to the transferee corporation; and

(2) a proportionate amount of any state or local distributions to the transferee corporation that are computed in any part using ADM or any other student count in which the student is included, if the transferee corporation includes the student in the transferee corporation's ADM for a school year.

(c) If a school corporation that is a transferor corporation enters into an agreement as described in subsection (a), the school corporation shall pay to the nonprofit corporation an amount agreed upon, which may not exceed **the total of:**

(1) the transfer tuition costs that otherwise would be payable to a transferee school corporation; and

(2) a proportionate amount of any state or local distributions to the transferor corporation that are computed in any part using ADM or any other student count in which the student is included, if the transferor corporation includes the student in the transferor corporation's ADM for a school year.

SECTION 3. IC 20-27-12-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.5. (a) As used in this chapter, "homeless student" includes a student who is awaiting placement in foster care.**

(b) The term does not include a student who is in foster care.

SECTION 4. IC 20-43-4-1, AS ADDED BY P.L.2-2006, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1. (a) An individual is an eligible pupil if the individual is a pupil enrolled in a school corporation and:**

(1) the school corporation has the responsibility to educate the pupil in its public schools without the payment of tuition;

(2) subject to subdivision (5), the school corporation has the responsibility to pay transfer tuition under IC 20-26-11 because the pupil is transferred for education to another school corporation;

(3) the pupil is enrolled in a school corporation as a transfer student under IC 20-26-11-6 or entitled to be counted for ADM purposes as a resident of the school corporation when attending its schools under any other applicable law or regulation;

(4) the state is responsible for the payment of transfer tuition to the school corporation for the pupil under IC 20-26-11; or

(5) all of the following apply:

(A) The school corporation is a transferee corporation.

(B) The pupil does not qualify as a qualified pupil in the transferee corporation under subdivision (3) or (4).

(C) The transferee corporation's attendance area includes a state licensed private or public health care facility or child care facility or foster family home where the pupil was placed:

(i) by or with the consent of the department of child

services;

(ii) by a court order;

(iii) by a child placing agency licensed by the division of family resources; or department of child services;

(iv) by a parent or guardian under IC 20-26-11-8; or

(v) by or with the consent of the department under IC 20-35-6-2.

(b) For purposes of a vocational education grant, an eligible pupil includes a student enrolled in a charter school.

SECTION 5. IC 31-34-20-5, AS AMENDED BY P.L.13-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5. (a) This section applies if a juvenile court:**

(1) places a child;

(2) changes the placement of a child; or

(3) reviews the implementation of a decree under IC 31-34-21 of a child placed;

in a state licensed private or public health care facility, child care facility, or foster family home, or the home of a relative or other unlicensed caretaker.

(b) The juvenile court shall do the following:

(1) Make findings of fact concerning the legal settlement of the child.

(2) Apply IC 20-26-11-2(1) through IC 20-26-11-2(8) to determine where the child has legal settlement.

(3) Include the findings of fact required by this section in:

(A) the dispositional order;

(B) the modification order; or

(C) the other decree;

making or changing the placement of the child.

(c) The juvenile court may determine that the legal settlement of the child is in the school corporation in which the child will attend school under IC 20-26-11-8(d).

(d) The juvenile court shall comply with the reporting requirements under IC 20-26-11-9 concerning the legal settlement of the child.

(e) The juvenile court may place a child in a public school, regardless of whether the public school has a waiting list for admissions, if the court determines that the school's program meets the child's educational needs and the school agrees to the placement. A placement under this subsection does not affect the legal settlement of the child.

SECTION 6. IC 31-37-19-26, AS AMENDED BY P.L.13-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 26. (a) This section applies if a juvenile court:**

(1) places a child;

(2) changes the placement of a child; or

(3) reviews the implementation of a decree under IC 31-37-20 (or IC 31-6-4-19 before its repeal) of a child placed;

in a state licensed private or public health care facility, child care facility, or foster family home, or the home of a relative or other unlicensed caretaker.

(b) The juvenile court shall do the following:

(1) Make findings of fact concerning the legal settlement of the child.

(2) Apply IC 20-26-11-2(1) through IC 20-26-11-2(8) to determine where the child has legal settlement.

(3) Include the findings of fact required by this section in the:

(A) dispositional order;

(B) modification order; or

(C) other decree;

making or changing the placement of the child.

(c) The juvenile court may determine that the legal settlement of the child is in the school corporation in which the child will attend school under IC 20-26-11-8(d).

(c) (d) The juvenile court shall comply with the reporting requirements under IC 20-26-11-9 concerning the legal settlement of the child.

(e) The juvenile court may place a child in a public school, regardless of whether the public school has a waiting list for admissions, if the court determines that the school's program meets the child's educational needs and the school agrees to the placement. A placement under this subsection does not affect the legal settlement of the child.

(Reference is to ESB 330 as reprinted April 4, 2007.)

C. LAWSON	SUMMERS
ROGERS	NOE
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 9-1; filed April 27, 2007, at 3:31 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 9 respectfully reports that said two committee have conferred and agreed as follows to wit: that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 22-11-14-1, AS AMENDED BY P.L.187-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter and IC 22-11-14.5:

"Auto burglar alarm" means a tube that contains pyrotechnic composition that produces a loud whistle or smoke when ignited. A small quantity of explosive, not exceeding fifty (50) milligrams, may also be used to produce a small report. A squib is used to ignite the device.

"Booby trap" means a small tube with string protruding from both ends, similar to a party popper in design. The ends of the string are pulled to ignite the friction sensitive composition, producing a small report.

"Chaser" means a device, containing fifty (50) milligrams or less of explosive composition, that consists of a small paper or cardboard tube that travels along the ground upon ignition. A whistling effect is often produced, and a small noise may be produced.

"Cigarette load" means a small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one (1) of the pegs, a small report is produced.

"Consumer firework" means a small firework that is designed primarily to produce visible effects by combustion, and that is required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR 1507. The term also includes some small devices designed to produce an audible effect, such as whistling devices, ground devices containing fifty (50) milligrams or less of explosive composition, and aerial devices containing one hundred thirty (130) milligrams or less of explosive composition. Propelling or expelling charges consisting of a mixture of charcoal, sulfur, and potassium nitrate are not considered as designed to produce an audible effect. Consumer fireworks:

(1) include:

(A) aerial devices, which include sky rockets, missile type rockets, helicopter or aerial spinners, roman

candles, mines, and shells;

(B) ground audible devices, which include firecrackers, salutes, and chasers; and

(C) firework devices containing combinations of the effects described in clauses (A) and (B); and

(2) do not include the items referenced in section 8(a) of this chapter.

"Cone fountain" means a cardboard or heavy paper cone which contains up to fifty (50) grams of pyrotechnic composition, and which produces the same effect as a cylindrical fountain.

"Cylindrical fountain" means a cylindrical tube not exceeding three-quarters (3/4) inch in inside diameter and containing up to seventy-five (75) grams of pyrotechnic composition. Fountains produce a shower of color and sparks upon ignition, and sometimes a whistling effect. Cylindrical fountains may contain a spike to be inserted in the ground (spike fountain), a wooden or plastic base to be placed on the ground (base fountain), or a wooden handle or cardboard handle for items designed to be hand held (handle fountain).

"Dipped stick" or "wire sparkler" means a stick or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition does not exceed one hundred (100) grams per item. Those devices containing chlorate or perchlorate salts do not exceed five (5) grams in total composition per item. Wire sparklers that contain no magnesium and that contain less than one hundred (100) grams of composition per item are not included in the category of consumer fireworks.

"Distributor" means a person who sells fireworks to wholesalers and retailers for resale.

"Explosive composition" means a chemical or mixture of chemicals that produces an audible effect by deflagration or detonation when ignited.

"Firecracker" or "salute" is a device that consists of a small paper wrapped or cardboard tube containing not more than fifty (50) milligrams of pyrotechnic composition and that produces, upon ignition, noise, accompanied by a flash of light.

"Firework" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, items referenced in section 8(a) of this chapter, and special fireworks. The following items are excluded from the definition of fireworks:

- (1) Model rockets.
- (2) Toy pistol caps.
- (3) Emergency signal flares.
- (4) Matches.
- (5) Fixed ammunition for firearms.
- (6) Ammunition components intended for use in firearms, muzzle loading cannons, or small arms.
- (7) Shells, cartridges, and primers for use in firearms, muzzle loading cannons, or small arms.
- (8) Indoor pyrotechnics special effects material.
- (9) M-80s, cherry bombs, silver salutes, and any device banned by the federal government.

"Flutter sparkler" means a narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. These devices do not use a fuse for ignition, but rather are ignited by igniting the paper at one (1) end of the tube.

"Ground spinner" means a small spinning device that is similar to wheels in design and effect when placed on the ground and ignited, and that produces a shower of sparks and color when spinning.

"Helicopter" or "aerial spinner" is a spinning device:

- (1) that consists of a tube up to one-half (1/2) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition;
- (2) to which some type of propeller or blade device is

attached; and

(3) that lifts into the air upon ignition, producing a visible or audible effect at the height of flight.

"Illuminating torch" means a cylindrical tube that:

(1) contains up to one hundred (100) grams of pyrotechnic composition;

(2) produces, upon ignition, a colored fire; and

(3) is either a spike, base, or handle type device.

"Importer" means:

(1) a person who imports fireworks from a foreign country; or

(2) a person who brings or causes fireworks to be brought within this state for subsequent sale.

"Indoor pyrotechnics special effects material" means a chemical material that is clearly labeled by the manufacturer as suitable for indoor use (as provided in National Fire Protection Association Standard 1126 (2001 edition)).

"Interstate wholesaler" means a person who is engaged in interstate commerce selling fireworks.

"Manufacturer" means a person engaged in the manufacture of fireworks.

"Mine" or "shell" means a device that:

(1) consists of a heavy cardboard or paper tube up to two and one-half (2 ½) inches in inside diameter, to which a wooden or plastic base is attached;

(2) contains up to forty (40) grams of pyrotechnic composition; and

(3) propels, upon ignition, stars (pellets of pressed pyrotechnic composition that burn with bright color), whistles, parachutes, or combinations thereof, with the tube remaining on the ground.

"Missile-type rocket" means a device that is similar to a sky rocket in size, composition, and effect, and that uses fins rather than a stick for guidance and stability.

"Municipality" has the meaning set forth in IC 36-1-2-11.

"Party popper" means a small plastic or paper item containing not more than sixteen (16) milligrams of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.

"Person" means an individual, an association, an organization, a limited liability company, or a corporation.

"Pyrotechnic composition" means a mixture of chemicals that produces a visible or audible effect by combustion rather than deflagration or detonation. Pyrotechnic compositions will not explode upon ignition unless severely confined.

"Responding fire department" means the paid fire department or volunteer fire department that renders fire protection services to a political subdivision.

"Retail sales stand" means a temporary business site or location where goods are to be sold.

"Retailer" means a person who purchases fireworks for resale to consumers.

"Roman candle" means a device that consists of a heavy paper or cardboard tube not exceeding three-eighths (3/8) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition. Upon ignition, up to ten (10) stars (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several second intervals.

"Sky rocket" means a device that:

(1) consists of a tube that contains pyrotechnic composition;

(2) contains a stick for guidance and stability; and

(3) rises into the air upon ignition, producing a burst of color or noise at the height of flight.

"Smoke device" means a tube or sphere containing pyrotechnic composition that produces white or colored smoke upon ignition as the primary effect.

"Snake" or "glow worm" means a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices do not contain mercuric thiocyanate.

"Snapper" means a small, paper wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes, producing a small report.

"Special discharge location" means a location designated for the discharge of consumer fireworks by individuals in accordance with rules adopted under section 3.5 of this chapter.

"Special fireworks" means fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, including firecrackers containing more than one hundred thirty (130) milligrams of explosive composition, aerial shells containing more than forty (40) grams of pyrotechnic composition, and other exhibition display items that exceed the limits for classification as consumer fireworks.

"Trick match" means a kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match, a small report or a shower of sparks is produced.

"Trick noisemaker" means an item that produces a small report intended to surprise the user.

"Wheel" means a pyrotechnic device that:

(1) is attached to a post or tree by means of a nail or string;

(2) contains up to six (6) driver units (tubes not exceeding one-half (½) inch in inside diameter) containing up to sixty (60) grams of composition per driver unit; and

(3) revolves, upon ignition, producing a shower of color and sparks and sometimes a whistling effect.

"Wholesaler" means a person who purchases fireworks for resale to retailers.

SECTION 2. IC 22-11-14-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10.5. (a) As used in this section, the term "use" means the ability of a county or municipality to regulate the days and hours when consumer fireworks may be used, ignited, or discharged.**

(b) Notwithstanding any other provision of this chapter:

(1) a county may adopt an ordinance concerning the use of consumer fireworks in the unincorporated areas of the county; and

(2) a municipality may adopt an ordinance concerning the use of consumer fireworks within the corporate limits of the municipality.

(c) An ordinance adopted under this section:

(1) may limit the use of consumer fireworks in the county or municipality;

(2) may not be more lenient than a rule adopted by a state agency concerning the use of fireworks; and

(3) may not limit the use of consumer fireworks:

(A) between the hours of 5:00 p.m. and two (2) hours after sunset on June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8, and July 9;

(B) between the hours of 10:00 a.m. and 12:00 midnight on July 4; and

(C) between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.

SECTION 3. An emergency is declared for this act.

(Reference is to ESB 9 as reprinted March 30, 2007.)

HEINOLD

MOSES

MRVAN

FRIZZELL

Senate Conferees

House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1173-1; filed April 27, 2007, at 4:19 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1173 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 10-12-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Benefits provided under this section are subject to IC 10-12-2-3.

(b) The basic monthly pension amount may not exceed by more than twenty dollars (\$20) one-half (½) the amount of the employee beneficiary's average monthly wage (excluding payments for overtime and determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code) received during the highest paid consecutive twelve (12) months before retirement. Salary that exceeds the monthly wage received by a police employee in the grade of trooper at the beginning of the trooper's ~~third~~ sixth year of service may not be considered when the basic pension amount is computed.

(c) An employee beneficiary in the active service of the department who has completed twenty (20) years of service after July 1, 1937, and who continues after July 1, 1937, in the service of the department is entitled to add to the basic monthly pension amount, at retirement, the following:

- (1) Two percent (2%) of the basic amount for each of the next two (2) full years of service over twenty (20) years.
- (2) Three percent (3%) of the basic amount for each of the next two (2) full years over twenty-two (22) years.
- (3) Four percent (4%) of the basic amount for each of the next two (2) full years over twenty-four (24) years.
- (4) Five percent (5%) of the basic amount for each of the next two (2) full years over twenty-six (26) years.
- (5) Six percent (6%) of the basic amount for each of the next two (2) full years over twenty-eight (28) years.
- (6) Seven percent (7%) of the basic amount for each of the next two (2) full years over thirty (30) years.
- (7) Eight percent (8%) of the basic amount for each of the next two (2) full years over thirty-two (32) years.

However, the total of the additional amount may not exceed seventy percent (70%) of the basic pension amount. These additional benefits are subject to the compulsory retirement age provided by the pension trust.

SECTION 2. IC 10-12-4-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) **The basic monthly pension amount (plus postretirement increases) payable after June 30, 2007, to an employee beneficiary of the state police 1987 benefit system who retired or was disabled after June 30, 1987, and before July 2, 2005, shall be increased by one percent (1%) of the maximum basic monthly pension amount payable to a retired state police employee in the grade of a trooper who has completed twenty-five (25) years of service as of July 1, 2007, as calculated under section 7 of this chapter.**

(b) **The increases specified in this section:**

- (1) **shall be based on the date of the employee beneficiary's latest retirement or disability;**
- (2) **do not apply to the benefits payable in a lump sum; and**
- (3) **are in addition to any other increase provided by law.**

SECTION 3. IC 10-12-4-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) **The basic monthly pension amount (plus postretirement increases) payable after June 30, 2008, to an employee beneficiary of the state police 1987 benefit system who retired or was disabled after June 30, 1987, and before July 2, 2006, shall be increased by one percent (1%) of the maximum basic monthly pension amount payable to a retired state police employee in the grade of trooper who has completed twenty-five (25) years of service as of July 1, 2007, as calculated under section 7 of this chapter.**

(b) **The increases specified in this section:**

- (1) **shall be based on the date of the employee beneficiary's latest retirement or disability;**
- (2) **do not apply to the benefits payable in a lump sum; and**
- (3) **are in addition to any other increase provided by law.**

SECTION 4. IC 10-12-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The pension advisory board that administers the pension under IC 10-12-3 shall direct and supervise the supplemental benefits provided in this chapter.

(b) The pension advisory board shall: ~~annually:~~

- (1) **annually** provide a schedule showing the number of retirees receiving pension benefits under IC 10-12-3; and
- (2) **meet at least one (1) time each year** to add to the regular pension benefit or annuity ~~a~~ **and any previously granted** supplemental benefit ~~equal to fifty percent (50%) of the difference between:~~

(A) ~~the retiree's pension amount; and~~

(B) ~~the pension benefits received by an employee retiring from the department after July 1, 1970; with twenty (20) years of active service;~~

the amount described in subsection (c).

(c) **The supplemental benefit referred to in subsection (b)(2) is equal to fifty percent (50%) of the difference between:**

(1) **the pension benefits to be received by an employee retiring from the department with twenty (20) years of active service the day after a change in the monthly wage received by a police employee in the grade of trooper at the beginning of the trooper's sixth year of service; and**

(2) **the lesser of:**

(A) **the pension benefit received by the employee beneficiary; or**

(B) **the pension benefit received by an employee retiring from the department with twenty (20) years of active service the day before a change in the monthly wage received by a police employee in the grade of trooper at the beginning of the trooper's sixth year of service.**

SECTION 5. IC 10-12-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. As an incentive to all employees of the department, the supplemental pension benefits of this chapter shall be increased by more than the fifty percent (50%) increase provided in section 3 of this chapter, at the rate of a five percent (5%) per year increase for each year of active service over twenty (20) years up to thirty (30) years of service, to provide that retired employees with thirty (30) years of service are entitled to one hundred percent (100%) of the regular pension benefits of employees who retire with twenty (20) years of active service after July 1, 1970: ~~as calculated in section (3)(c) of this chapter.~~

SECTION 6. IC 10-12-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The pension advisory board ~~shall~~ **may meet at any time** to make the necessary computations required by this chapter. ~~on or before~~

August 1 of each year preceding a session of the general assembly:

(b) The general assembly shall appropriate and the budget agency shall make available an amount sufficient to provide the funds necessary for supplemental pension benefits for eligible retirees under this chapter.

SECTION 7. An emergency is declared for this act.

(Reference is to EHB 1173 as printed April 6, 2007.)

COCHRAN	KRUSE
LEONARD	DEIG
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 450-1; filed April 27, 2007, at 4:29 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 450 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 12-23-18-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) By May 15 of each year, each methadone provider shall submit to the division a fee of:

- (1) **twenty dollars (\$20) thirty dollars (\$30) for each Indiana resident patient; and**
- (2) **one hundred fifty dollars (\$150) for each nonresident patient;**

treated by the methadone provider during the preceding ~~calendar~~ year.

(b) The fee collected under subsection (a) shall be deposited in the methadone diversion control and oversight program fund established under section 4 of this chapter.

SECTION 2. IC 12-23-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) As used in this section, "fund" means the methadone diversion control and oversight program fund established under subsection (b).

(b) The methadone diversion control and oversight program fund is established to administer and carry out the purposes of this chapter. The fund shall be administered by the division.
Money in the fund may also be used for the following:

- (1) **To support technical assistance to health providers who provide assistance concerning the following:**

(A) **Methadone and other medication assisted therapy.**

(B) **Evidence based addiction treatment.**

(C) **Interventions and treatment of individuals suffering with co-existing disorders of mental illness and substance abuse addiction disorders.**

- (2) **To include methadone providers in the quality review process of reviewing methadone consumer services.**

- (3) **To provide mental health and addiction prevention and treatment services to consumers.**

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest money in the fund in the same manner as other public money may be invested.

(e) Money in the fund at the end of the state fiscal year does not revert to the state general fund."

Page 1, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 4. IC 12-23-18-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. This chapter expires June 30, ~~2008~~ 2010."

Renumber all SECTIONS consecutively.

(Reference is to ESB 450 as printed March 13, 2007.)

MILLER	STEMLER
SIPES	CROUCH
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1019-2007 because it conflicts with SEA 94-2007 without properly recognizing the existence of SEA 94-2007, has had Engrossed House Bill 1019-2007 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1019-2007 be corrected as follows:

Page 1, line 1, delete "P.L.2-2005," and insert "SEA 94-2007, SECTION 211,".

Page 1, line 2, delete "SECTION 125,".

Page 1, line 11, delete "his" and insert "the officer's".

Page 2, line 12, delete "is mentally or physically disabled" and insert "has a mental or physical disability".

Page 2, line 13, delete "mentally".

Page 2, line 14, delete "or physically disabled".

Page 2, line 14, after "person" delete "," and insert "with a mental or physical disability,".

(Reference is to EHB 1019 as reprinted April 4, 2007.)

PELATH, Chair
WHETSTONE, R.M.M.
DUNCAN, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1301 because it conflicts with SEA 526-2007 without properly recognizing the existence of SEA 526-2007, has had Engrossed House Bill 1301 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1301 be corrected as follows:

Page 6, after line 35, begin a new paragraph and insert:

"SECTION 12. IC 21-22-1-5, AS ADDED BY SEA 526-2007, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. ~~"Regional institute"~~ "Region" means a regional institute ~~an administrative region~~ established under IC 21-22-6-1.

SECTION 13. IC 21-22-2-2, AS ADDED BY SEA 526-2007, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) ~~Subject to this section;~~ The two (2) year state educational institution established by section 1 of this chapter shall be called "Ivy Tech Community College of Indiana".

~~(b) The board of trustees may change the name of the state educational institution with the approval of the governor.~~

SECTION 14. IC 21-22-3-2, AS ADDED BY SEA 526-2007, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. The state board of trustees shall be known by the name of "The Trustees of Ivy Tech

Community College of Indiana". ~~except when the name is altered, as provided in IC 21-22-2-2.~~ In the corporate name and capacity, the state board of trustees may sue, be sued, plead, and be impleaded, in any court of record, and by that name has perpetual succession.

SECTION 15. IC 21-22-4-4, AS ADDED BY SEA 526-2007, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. The duties of the treasurer of Ivy Tech Community College include the following:

- (1) Keeping true accounts of all money received into the treasury of Ivy Tech Community College and of the expenditure of that money.
- (2) Paying out the same on order of the state board of trustees.
- (3) Collecting the tuition and fees due to Ivy Tech Community College as well as gifts, grants, bequests, and devises.
- (4) ~~Submitting a full~~ **Preparing an annual financial statement of the finances of for** Ivy Tech Community College and ~~the treasurer's receipts and payments,~~ at each ~~annual regular~~ meeting of the state board of trustees **reporting on the financial condition of the college.**
- (5) Investing and reinvesting such funds as shall come into the treasurer's possession ~~to for~~ the benefit of Ivy Tech Community College.

SECTION 16. IC 21-22-5-2, AS ADDED BY SEA 526-2007, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. The state board of trustees shall meet regularly **at least** four (4) times a year and at other times upon call by its chairman.

SECTION 17. IC 21-22-6-1, AS ADDED BY SEA 526-2007, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. The state board of trustees may do the following:

- (1) Divide Indiana into appropriate regions, taking into consideration, but not limited to, factors such as population, potential enrollment, tax bases, and driving distances, and develop an overall state plan that provides for the orderly development of ~~regional technical institutes~~ **the regions** encompassing, ultimately, all parts of Indiana into a coordinated system providing a comprehensive program of post-high school general, liberal arts, occupational, and technical education.
- (2) Whenever a ~~regional institute~~ **region** is established, issue a ~~certificate of incorporation and a~~ charter, in a form that the state board of trustees provides, to the ~~regional institute~~ **region**, assist and supervise the development of a regional plan, and coordinate regional programs to avoid unnecessary and wasteful duplication.
- (3) Make biennial studies of the budget requirements of the ~~regional institutes~~ **regions** and of its own programs and prepare a budget, including anticipated revenues and providing for the construction or rental of facilities requisite to carrying out the needs of Ivy Tech Community College.
- (4) Perform or contract for the performance of ~~an audit~~ **periodic audits** of the financial records of each ~~regional institute~~ **on at least a biennial basis: region.**

SECTION 18. IC 21-22-6-2, AS ADDED BY SEA 526-2007, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. Whenever the state board of trustees establishes a ~~regional institute~~ **within a an administrative region**, it shall appoint a regional board of trustees.

SECTION 19. IC 21-22-6-3, AS ADDED BY SEA 526-2007, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. The regional board of a ~~regional institute~~ **region** consists of **at least** seven (7) members, including at least five (5) members who are representative of the

manufacturing, commercial, agricultural, labor, and educational groups of the region, all appointed by the state board of trustees. All members of the regional board must be residents of the region. Appointments are for three (3) year terms, on a staggered basis, and all trustees must be citizens of Indiana. Members may serve for an unlimited number of terms.

SECTION 20. IC 21-22-6-4, AS ADDED BY SEA 526-2007, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. A vacancy on the regional board shall be filled by appointment by the state board of trustees. The regional board shall nominate ~~three (3)~~ **and submit to the state board the names of one (1) or more** candidates to fill the vacancy within forty (40) days after the vacancy occurs. The state board of trustees may appoint one (1) of the persons nominated by the regional board or may reject all of the regional board's nominees. If the state board of trustees rejects all of the nominees from a regional board, the state board of trustees shall notify the regional board, and the regional board shall make ~~three (3)~~ **one (1) or more** additional nominations within forty (40) days after receipt of the notice. The state board of trustees shall then fill the vacancy from either the original group of nominations or from the additional nominations.

SECTION 21. IC 21-22-6-7, AS ADDED BY SEA 526-2007, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. A majority of the regional board constitutes a quorum. **The affirmative votes of a majority of the regional board are required for the board to take action on any matter.**

SECTION 22. IC 21-22-6-8, AS ADDED BY SEA 526-2007, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. A regional board shall do the following:

- (1) Make a careful analysis of the educational needs and opportunities of the region.
- (2) Develop and recommend to the state board of trustees, a plan for providing postsecondary:
 - (A) general education;
 - (B) liberal arts education; and
 - (C) occupational and technical education;**programs and appropriate workforce development, assessment, and training services** for the residents of that region.
- (3) Develop and recommend a budget for regional programs and operations.
- (4) Identify and recommend alternative methods of acquiring or securing facilities and equipment necessary for the delivery of effective regional programs.
- (5) Facilitate and develop regional cooperation with employers, community leaders, economic development efforts, area vocational centers, and other public and private education and training entities in order to provide postsecondary general, liberal arts, and occupational and technical education and training in an efficient and cost effective manner and to avoid duplication of services.
- (6) Determine through evaluation, studies, or assessments the degree to which the established training needs of the region are being met.
- (7) Make recommendations to the state board of trustees concerning policies that appear to substantially affect the regional board's capacity to deliver effective and efficient programming.

SECTION 23. IC 21-22-6-9, AS ADDED BY SEA 526-2007, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. A regional board may do the following:

- (1) Adopt, amend, or repeal bylaws for the ~~regional institute~~ **region**, subject to the approval of the state board of trustees.
- (2) Make recommendations to the state board of trustees

concerning amendments to the charter of the ~~regional institute~~ **region**.

SECTION 24. IC 21-22-6-10, AS ADDED BY SEA 526-2007, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. Before taking any action under IC 21-27-6-3, IC 21-27-6-4, IC 21-31-2-5, IC 21-38-3-7(2), or IC 21-41-5-8 that would substantially affect a ~~regional institute~~ **region**, the state board of trustees shall request recommendations concerning the proposed action from the regional board for that region.

SECTION 25. IC 21-27-6-2, AS ADDED BY SEA 526-2007, SECTION 268, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. The board of trustees of Ivy Tech Community College has responsibility for the management and policies of Ivy Tech Community College and its ~~regional institutes~~ **administrative regions** within the framework of laws enacted by the general assembly.

SECTION 26. IC 21-27-6-6, AS ADDED BY SEA 526-2007, SECTION 268, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. The board of trustees of Ivy Tech Community College may authorize, approve, enter into, ratify, or confirm any agreement relating to a statewide program or a ~~regional institute~~ **region** with:

- (1) the United States government, acting through any agency of the government designated or created to aid in the financing of the projects; or
- (2) any person, organization, or agency offering contracts or grants-in-aid financing the educational facilities or the operation of the facilities and programs.

SECTION 27. IC 21-38-3-7, AS ADDED BY SEA 526-2007, SECTION 279, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. The board of trustees of Ivy Tech Community College may do the following:

- (1) Develop a statewide salary structure and classification system, including provisions for employee group insurance, employee benefits, and personnel policies.
- (2) Employ the chief administrator of a ~~regional institute~~ **each region**.
- (3) Authorize the chief administrator of a ~~regional institute~~ **region** to employ the necessary personnel for the ~~regional institute~~ **region**, determine qualifications for positions, and fix compensation for positions in accordance with statewide policies established under subdivision (1).

SECTION 28. IC 21-41-5-8, AS ADDED BY SEA 526-2007, SECTION 282, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. Subject to IC 21-22-6-10, the board of trustees of Ivy Tech Community College may develop and adopt the appropriate **education** programs to be offered **and workforce services to be provided**.

SECTION 29. IC 21-41-5-10, AS ADDED BY SEA 526-2007, SECTION 282, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. The board of trustees of Ivy Tech Community College may do the following:

- (1) Initiate, promote, inaugurate, and develop occupational and technical education programs **and appropriate workforce development, assessment, and training services** in a manner consistent with sections 2 through 4 of this chapter.
- (2) Operate either through committee or through subordinate corporate entities, statewide general, liberal arts, occupational, and technical education programs, that in the board's opinion should be established due to:
 - (A) the specialized nature of the programs;
 - (B) the limited number of students involved; or
 - (C) other unique features requiring special attention.
- (3) Contract with appropriate education institutions, including local public schools or other agencies, to carry out specific programs that can best and most economically be provided through this approach."

(Reference is to EHB 1301 as printed March 23, 2007.)

PELATH, Chair
WHETSTONE, R.M.M.
PORTER, Author

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 419 because it conflicts with SEA 229-2007 without properly recognizing the existence of SEA 229-2007, has had Engrossed Senate Bill 419 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 419 be corrected as follows:

Page 10, delete line 35.

Page 10, line 36, delete "(g)" and insert "(f)".

Page 10, line 37, delete "(h)" and insert "(g)".

(Reference is to ESB 419 as printed March 13, 2007.)

PELATH, Chair
WHETSTONE, R.M.M.
BARDON, Sponsor

Report adopted.

ACTION ON RULES SUSPENSIONS AND CONFERENCE COMMITTEE REPORTS

COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures has had under consideration House Rule 162.1 and recommends that Rule 162.1 be suspended so that the following conference committee reports are eligible for consideration after April 11 and that Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 2 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed Senate Bills 44-1, 113-1, 191-1, 416-1, 463-1, 480-1, 502-1, and 561-1 and Engrossed House Bills 1266-1, 1437-1, and 1821-1.

PELATH, Chair

Report adopted.

HOUSE MOTION

Mr. Speaker: I move House Rule 162.1 be suspended so that the following conference committee reports are eligible for consideration after April 11 and that House Rule 164.1 be suspended so that the following conference committee reports may be laid over on the members' desks for 2 hours, all so that the following conference committee reports may be eligible to be placed before the House for action: Engrossed Senate Bills 44-1, 113-1, 191-1, 416-1, 463-1, 480-1, 502-1, and 561-1 and Engrossed House Bills 1266-1, 1437-1, and 1821-1.

PELATH, Chair

Motion prevailed.

Engrossed House Bill 1266-1

The conference committee report was reread. Roll Call 612: yeas 90, nays 1. Report adopted.

Engrossed House Bill 1437-1

The conference committee report was reread. Roll Call 613: yeas 90, nays 0. Report adopted.

Representatives Goodin and Kuzman were excused.

Engrossed House Bill 1821-1

The conference committee report was reread. Roll Call 614: yeas 90, nays 0. Report adopted.

Engrossed Senate Bill 44-1

The conference committee report was reread. Roll Call 615: yeas 92, nays 1. Report adopted.

Engrossed Senate Bill 113-1

The conference committee report was reread. Roll Call 616: yeas 94, nays 0. Report adopted.

Engrossed Senate Bill 191-1

The conference committee report was reread. Roll Call 617: yeas 88, nays 5. Report adopted.

Engrossed Senate Bill 416-1

The conference committee report was reread. Roll Call 618: yeas 93, nays 0. Report adopted.

Representatives C. Brown, Goodin, Kuzman, L. Lawson, and Mays, who had been excused, were present.

Engrossed Senate Bill 463-1

The conference committee report was reread. Roll Call 619: yeas 41, nays 56. Report rejected.

Engrossed Senate Bill 480-1**HOUSE MOTION**

Mr. Speaker: I move, in accordance with the Code of Ethics, that any member who is a veteran and who would otherwise have a conflict of interest concerning Engrossed Senate Bill 480, be permitted to vote.

RESKE

Motion prevailed.

The conference committee report was reread. Roll Call 620: yeas 99, nays 0. Report adopted.

Engrossed Senate Bill 502-1

The conference committee report was reread. Roll Call 621: yeas 76, nays 21. Report adopted.

Engrossed Senate Bill 561-1

The conference committee report was reread. Roll Call 622: yeas 98, nays 0. Report adopted.

**MOTIONS TO CONCUR
IN SENATE AMENDMENTS****HOUSE MOTION**

Mr. Speaker: I move that the House reconsider its actions whereby it dissented from the Senate amendments to Engrossed House Bill 1753 and that the House now concur in the Senate amendments to said bill.

SUMMERS

Roll Call 623: yeas 94, nays 3. Motion prevailed.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1274-1; filed April 27, 2007, at 5:12 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1274 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 9-29-11-1, AS AMENDED BY P.L.174-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Except as provided in subsection (c), the main department, office, agency, or other person under whose supervision a law enforcement officer carries on the law enforcement officer's duties may charge a fee that is fixed by ordinance of the fiscal body in an amount not less than five dollars (\$5) **nor more than eight dollars (\$8)** for each report. **However, the main department, office, agency, or other person may not charge a fee that is more than five dollars (\$5) unless the state police department has certified that the main department, office, agency, or other person has submitted its accident reports to the central repository not later than twenty (20) days after completion.**

(b) The fee collected under subsection (a) or (c) shall be deposited in the following manner:

(1) If the department supplying a copy of the accident report is the state police department, in a separate account known as the "accident report account". The account may be expended at the discretion of the state police superintendent for a purpose reasonably related to the keeping of accident reports and records or the prevention of street and highway accidents.

(2) If the department supplying a copy of the accident report is the sheriff, county police, or county coroner, in a separate account known as the "accident report account". The account may be expended at the discretion of the chief administrative officer of the entity that charged the fee for any purpose reasonably related to the keeping of accident reports and records or the prevention of street and highway accidents.

(3) If the department supplying a copy of the accident report is a city or town police department, in the local law enforcement continuing education fund established by IC 5-2-8-2.

(c) **Except as provided in subsection (e),** the superintendent of the state police department, may charge a fee in an amount that is not less than five dollars (\$5) **nor more than eight dollars (\$8)** for:

(1) each report; and

(2) the inspection and copying of other report related data maintained by the department.

(d) **The superintendent of the state police department shall biennially tabulate and analyze the costs associated with the state police department maintaining a vehicle crash records system as compared with the costs associated with contracting with a private vendor to provide a vehicle crash records system. The superintendent shall publish the analysis and tabulation in the form of a report. The state police department shall:**

(1) **publish the report biennially beginning on January 30, 2008;**

(2) **provide a copy of the report to the legislative council; and**

(3) **make the report available to the public.**

The report to the legislative council must be in an electronic format under IC 5-14-6.

(e) **If the analysis contained in the report described in subsection (d) demonstrates the need for a fee greater than eight dollars (\$8), the superintendent may establish a higher fee by adopting rules under IC 4-22-2.**

SECTION 2. IC 9-29-11.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2007]:

Chapter 11.5. Accident Response Service Fees

Sec. 1. As used in this chapter, "accident response service fee" means a fee imposed for any of the following:

- (1) The response by a local law enforcement agency to a motor vehicle accident.
- (2) The investigation by a local law enforcement agency of a motor vehicle accident.

Sec. 2. As used in this chapter, "local law enforcement agency" means a political subdivision's department or agency whose principal function is the apprehension of criminal offenders.

Sec. 3. A political subdivision or a local law enforcement agency of a political subdivision may not impose or collect, or enter into a contract for the collection of, an accident response service fee on or from:

- (1) the driver of a motor vehicle; or
- (2) any other person;

involved in a motor vehicle accident.

SECTION 3. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "committee" refers to the regulatory flexibility committee established by IC 8-1-2.6-4.

(b) Not later than November 1, 2007, the committee shall study the revision of the Indiana statute governing enhanced wireless 911 systems to include Internet Protocol enabled services and other emerging technologies.

(c) The committee shall prepare a report on the committee's recommendations, if any, concerning the issue described in subsection (b) and shall submit the report to the legislative council in an electronic format under IC 5-14-6 not later than December 1, 2007.

SECTION 4. [EFFECTIVE UPON PASSAGE] (a) This SECTION applies to:

- (1) the main department, office, agency, or other person under whose supervision a law enforcement officer carries on the law enforcement officer's duties; and
- (2) the state police department.

(b) Notwithstanding IC 9-29-11-1, as amended by this act, if:

- (1) a person to whom this SECTION applies has entered into a contract with a private entity to supply a copy of an accident report before the effective date of this SECTION; and
 - (2) the contract authorizes a person to charge more than eight dollars (\$8) for a copy of the accident report;
- the eight dollar (\$8) cap on the fee that may be charged for an accident report under IC 9-29-11-1, as amended by this act, does not apply to the persons who are parties to the contract for the duration of the contract.**

(c) This SECTION expires July 1, 2012.

SECTION 5. An emergency is declared for this act.

(Reference is to EHB 1274 as reprinted April 10, 2007.)

HERRELL

BRAY

ULMER

LEWIS

House Conferees

Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1425-1; filed April 27, 2007, at 5:13 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1425 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 9-13-2-105, AS AMENDED BY P.L.210-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 105. (a) "Motor vehicle" means, except as otherwise provided in this section, a vehicle that is self-propelled. The term does not include a farm tractor, an implement of agriculture designed to be operated primarily in a farm field or on farm premises, or an electric personal assistive mobility device.

(b) "Motor vehicle", for purposes of IC 9-21, means:

- (1) a vehicle except a motorized bicycle that is self-propelled; or
- (2) a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) "Motor vehicle", for purposes of IC 9-19-10.5 and IC 9-25, means a vehicle that is self-propelled upon a highway in Indiana. The term does not include a farm tractor.

(d) "Motor vehicle", for purposes of IC 9-30-10, does not include a motorized bicycle.

(e) "Motor vehicle", for purposes of IC 9-23-2 and IC 9-23-3, includes a semitrailer.

SECTION 2. IC 9-13-2-179 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 179. "Towing service" means a business person that engages in moving or removing abandoned or disabled vehicles and, once the vehicles are moved or removed, stores or impounds the vehicles.

SECTION 3. IC 9-21-21-3, AS AMENDED BY HEA 1357-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. Except as provided in section 4.3 of this chapter, if the owner of a farm truck, farm trailer, or farm semitrailer and tractor described in section 1 of this chapter begins to operate the farm truck, farm trailer, or farm semitrailer and tractor or permits the farm truck, farm trailer, or farm semitrailer and tractor to be operated:

- (1) in the conduct of a commercial enterprise; or
- (2) for the transportation of farm products after the commodities have entered the channels of commerce during a registration year for which the license fee under IC 9-29-5-13 has been paid;

the owner shall pay the amount computed under IC 9-29-5-13.5(b) due for the remainder of the registration year for the license fee.

SECTION 4. IC 9-21-21-4.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.3. (a) Notwithstanding section 3 of this chapter, subsection (b), and IC 9-18-2-4, a farm truck, farm trailer, or farm semitrailer and tractor described in section 1 of this chapter may be operated intrastate for the transportation of seasonal, perishable, fruit or vegetables to the first point of processing for not more than one (1) thirty (30) day period in a registration year established by IC 9-18-2-7. Before a vehicle may be operated as provided in this subsection, the owner shall pay to the bureau:

- (1) the license fee due under IC 9-29-5-13(b); and
- (2) eight and one-half percent (8.5%) of the license fee paid under IC 9-29-5-13(b);

for the farm truck, farm trailer, or farm semitrailer and tractor.

(b) Notwithstanding section 3 of this chapter, subsection (a), and IC 9-18-2-4, a farm truck, farm trailer, or farm semitrailer and tractor described in section 1 of this chapter may be operated intrastate for the transportation of tomatoes or silage to the first point of processing for a period of not more than one (1) seventy-one (71) day period in a registration year established by IC 9-18-2-7. Before a vehicle may be operated as provided in this subsection, the owner

shall pay to the bureau:

- (1) the license fee due under IC 9-29-5-13(b); and
- (2) seventeen percent (17%) of the license fee paid under IC 9-29-5-13(b);

for the farm truck, farm trailer, or farm semitrailer and tractor.

(c) The bureau shall adopt rules under IC 4-22-2 to authorize the operation of a farm truck, farm trailer, or farm semitrailer and tractor in the manner provided in this section.

SECTION 5. IC 9-21-21-5, AS ADDED BY P.L.210-2005, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. In addition to the penalty provided in section 7 of this chapter, **and except as provided in section 4.3 of this chapter**, a person that operates a vehicle or allows a vehicle that the person owns to be operated when the vehicle is:

- (1) registered under this chapter as a farm truck, farm trailer, or farm semitrailer and tractor; and
- (2) operated as set forth in section 3 of this chapter;

commits a Class C infraction. However, the offense is a Class B infraction if, within the three (3) years preceding the commission of the offense, the person had a prior unrelated judgment under this section.

SECTION 6. IC 9-22-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. As used in this chapter, "public agency" means ~~the bureau or a~~ local agency given the responsibility by statute or ordinance for the removal, storage, and disposal of abandoned vehicles.

SECTION 7. IC 9-22-1-4, AS AMENDED BY P.L.104-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Except as provided in subsection (c), the person who owns an abandoned vehicle or parts is:

- (1) responsible for the abandonment; and
- (2) liable for all of the costs incidental to the removal, storage, and disposal;

of the vehicle or the parts under this chapter.

(b) The costs for storage of an abandoned vehicle may not exceed one thousand five hundred dollars (\$1,500).

(c) If an abandoned vehicle is sold by a person who removed, towed, or stored the vehicle, the person who previously owned the vehicle is not responsible for storage fees.

(d) If an abandoned vehicle is sold by a person who removed, towed, or stored the vehicle, and proceeds from the sale of the vehicle covered the **removal, towing, and** storage expenses, any remaining proceeds from the sale of the vehicle shall be returned to the previous owner of the vehicle if the previous owner is known.

SECTION 8. IC 9-22-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. The bureau shall be notified within seventy-two (72) hours of the location and description of a vehicle described in section 5 of this chapter. ~~Upon receipt of notification, the bureau shall cause a search to be made to determine and notify the person who owns the vehicle under section 20 of this chapter.~~

SECTION 9. IC 9-22-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. If:

- (1) the person who owns or holds a lien under section 8 of this chapter does not appear and pay all costs; or
- (2) the person who owns a vehicle cannot be determined by a search ~~conducted~~ under section ~~20~~ 19 of this chapter;

~~the bureau shall declare the vehicle is considered abandoned and provide for disposal must be disposed of~~ under this chapter.

SECTION 10. IC 9-22-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. The release must state the name, signature, and address of the person who owns or holds a lien on the vehicle, a description of the vehicle or parts, costs, and date of release. A towing operator service

shall notify the ~~bureau~~ appropriate public agency of all releases under section 8 of this chapter.

SECTION 11. IC 9-22-1-13, AS AMENDED BY P.L.104-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) If in the opinion of the officer the market value of an abandoned vehicle or parts determined in accordance with section 12 of this chapter is less than:

- (1) five hundred dollars (\$500); or
- (2) in a municipality that has adopted an ordinance under subsection (b), the amount established by the ordinance;

the officer shall immediately dispose of the vehicle to a ~~towing service~~ storage yard. A copy of the abandoned vehicle report and photographs relating to the abandoned vehicle shall be forwarded to the bureau. ~~The~~ A towing service may dispose of ~~the an~~ abandoned vehicle not less than thirty (30) days after the date on which the towing service removed the abandoned vehicle. **A city, county, or town that operates a storage yard under IC 36-9-30-3 may dispose of an abandoned vehicle to an automobile scrapyard or an automotive salvage recycler upon removal of the abandoned vehicle.** The public agency disposing of the vehicle shall retain the original records and photographs for at least two (2) years.

(b) The legislative body of a municipality (as defined in IC 36-1-2-11) may adopt an ordinance that establishes the market value below which an officer may dispose of a vehicle or parts under subsection (a). However, the market value established by the ordinance may not be more than seven hundred fifty dollars (\$750).

SECTION 12. IC 9-22-1-16, AS AMENDED BY P.L.104-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) If after seventy-two (72) hours the person who owns a vehicle believed to be abandoned on private property that the person owns or controls, including rental property, has not removed the vehicle from the private property, the person who owns or controls the private property may have the vehicle towed from the private property. ~~The towing operator shall do the following:~~

- (1) ~~Contact the bureau to obtain the name and address of the person who owns the vehicle;~~
- (2) ~~Send, by certified mail, a copy of the information contained in the notice required under section 15 of this chapter to the person who owns the vehicle. The notice required by this subdivision must be mailed to the person who owns the vehicle according to the records of the bureau not later than five (5) business days after receipt of the information in subdivision (1) from the bureau.~~

(b) Notwithstanding subsection (a), in an emergency situation a vehicle may be removed immediately. As used in this subsection, "emergency situation" means that the presence of the abandoned vehicle interferes physically with the conduct of normal business operations of the person who owns or controls the private property or poses a threat to the safety or security of persons or property, or both.

SECTION 13. IC 9-22-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. A towing operator ~~who service that~~ tows a vehicle under section 5 or 16 of this chapter shall give notice to the public agency ~~and bureau~~ that the abandoned vehicle is in the possession of the towing operator service.

SECTION 14. IC 9-22-1-19, AS AMENDED BY P.L.104-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 19. (a) Within seventy-two (72) hours after removal of ~~an abandoned~~ a vehicle to a storage yard or towing service under section 5, 13, 14, or 16 of this chapter, the public agency or towing operator service shall do the following:

- (1) Prepare and forward to the bureau ~~an abandoned vehicle~~ a report containing a description of the vehicle,

including the following information concerning the vehicle:

- (1) (A) The make.
- (2) (B) The model.
- (3) (C) The identification number.
- (4) (D) The number of the license plate.

(2) Conduct a search of national data bases, including a data base of vehicle identification numbers, to attempt to obtain the name and address of the person who owns or holds a lien on the vehicle.

~~(b) The public agency or towing operator shall request that the bureau advise the public agency or towing operator of the name and most recent address of the person who owns or holds a lien on the vehicle.~~

~~(c) (b) Notwithstanding section 4 of this chapter, if the public agency or towing operator service fails to notify the bureau of the removal of an abandoned vehicle within seventy-two (72) hours after the vehicle is removed as required by subsection (a), the public agency or towing operator service:~~

- (1) may not initially collect more in reimbursement for the costs of storing the vehicle than the cost incurred for storage for seventy-two (72) hours; and
- (2) **subject to subsection (c),** may collect further reimbursement under this chapter only for additional storage costs incurred after notifying the bureau of the removal of the abandoned vehicle.

(c) If the public agency or towing service obtains the name and address of the person who owns or holds a lien on a vehicle under subsection (a)(2), within seventy-two (72) hours after obtaining the name and address, the public agency or towing service shall, by certified mail, notify the person who owns or holds a lien on the vehicle of the:

- (1) name;
- (2) address; and
- (3) telephone number;

of the public agency or towing service. Notwithstanding section 4 of this chapter and subsection (b)(2), a public agency or towing service that fails to notify a person who owns or holds a lien on the vehicle as set forth in this subsection may not collect additional storage costs incurred after the date of receipt of the name and address obtained under subsection (a)(2).

(d) A towing service may not collect reimbursement under both subsections (b) and (c) for storage costs incurred during a particular period for one (1) vehicle.

SECTION 15. IC 9-22-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) This section applies to a ~~consolidated city, second class city, town, or county.~~

(b) Except as provided in subsection (c), if the person who owns or holds a lien upon a vehicle does not appear within twenty (20) days after the mailing of a notice under section ~~20~~ **19** of this chapter, the unit may sell the vehicle or parts by either of the following methods:

- (1) The unit may sell the vehicle or parts to the highest bidder at a public sale. Notice of the sale shall be given under IC 5-3-1, except that only one (1) newspaper insertion one (1) week before the public sale is required.
- (2) The unit may sell the vehicle or part as unclaimed property under IC 36-1-11. The twenty (20) day period for the property to remain unclaimed is sufficient for a sale under this subdivision.

(c) This subsection applies to a consolidated city or county containing a consolidated city. If the person who owns or holds a lien upon a vehicle does not appear within fifteen (15) days after the mailing of a notice under section ~~20~~ **19** of this chapter, the unit may sell the vehicle or parts by either of the following methods:

- (1) The unit may sell the vehicle or parts to the highest bidder at a public sale. Notice of the sale shall be given

under IC 5-3-1, except that only one (1) newspaper insertion one (1) week before the public sale is required.

(2) The unit may sell the vehicle or part as unclaimed property under IC 36-1-11. The fifteen (15) day period for the property to remain unclaimed is sufficient for a sale under this subdivision.

SECTION 16. IC 9-22-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24. A person who purchases a vehicle under section ~~22 or~~ 23 of this chapter shall be furnished a bill of sale for each abandoned vehicle sold by the ~~bureau or~~ public agency upon paying the fee for a bill of sale under IC 9-29-7. A person who purchases a vehicle under section ~~22 or~~ 23 of this chapter must:

- (1) present evidence from a law enforcement agency that the vehicle purchased is roadworthy, if applicable; and
- (2) pay the appropriate title fee under IC 9-29-4;

to obtain a certificate of title under IC 9-17 for the vehicle.

SECTION 17. IC 9-22-1-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. The proceeds of sale of an abandoned vehicle or parts under section ~~22 or~~ 23 of this chapter shall be credited against the costs of the removal, storage, and disposal of the vehicle.

SECTION 18. IC 9-22-1-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) This section applies to sales of abandoned vehicles or parts by ~~local units: a city, county, or town.~~

(b) The proceeds from the sale of abandoned vehicles or parts, including:

- (1) charges for bills of sale; and
- (2) money received from persons who own or hold liens on vehicles for the cost of removal or storage of vehicles;

shall be deposited ~~with the county treasurer or city controller and placed by the treasurer or controller in the unit's city's, county's, or town's~~ abandoned vehicle fund **by the fiscal officer of the city, county, or town.**

(c) The costs incurred by a public agency in administering this chapter shall be paid from the abandoned vehicle fund.

(d) The fiscal body shall annually appropriate sufficient money to the fund to carry out this chapter. Money remaining in the fund at the end of a year remains in the fund and does not revert to the general fund.

(e) Notwithstanding subsection (d), the fiscal body of a consolidated city may transfer money from the fund.

SECTION 19. IC 9-22-5-15, AS AMENDED BY P.L.104-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) An individual, a firm, a limited liability company, or a corporation that performs labor, furnishes materials or storage, or does repair work on a motor vehicle, trailer, semitrailer, or recreational vehicle at the request of the person who owns the vehicle has a lien on the vehicle to the reasonable value of the charges for the labor, materials, storage, or repairs.

(b) An individual, a firm, a partnership, a limited liability company, or a corporation that provides towing services for a motor vehicle, trailer, semitrailer, or recreational vehicle: ~~at the request of:~~

- (1) **at the request of** the person who owns the motor vehicle, trailer, semitrailer, or recreational vehicle; ~~or~~
- (2) **at the request of** an individual, a firm, a partnership, a limited liability company, or a corporation on whose property an abandoned motor vehicle, trailer, semitrailer, or recreational vehicle is located; **or**
- (3) **in accordance with IC 9-22-1;**

has a lien on the vehicle for the reasonable value of the charges for the towing services and other related costs. An individual, a firm, a partnership, a limited liability company, or a corporation that obtains a lien for an abandoned vehicle under subdivision (2) must comply with IC 9-22-1-4, IC 9-22-1-16, IC 9-22-1-17, and IC 9-22-1-19.

(c) If:

- (1) the charges made under subsection (a) or (b) are not paid; and
- (2) the motor vehicle, trailer, semitrailer, or recreational vehicle is not claimed;

within thirty (30) days from the date on which the vehicle was left in or came into the possession of the individual, firm, limited liability company, or corporation for repairs, storage, towing, or the furnishing of materials, the individual, firm, limited liability company, or corporation may advertise the vehicle for sale. The vehicle may not be sold before fifteen (15) days after the date the advertisement required by subsection (d) has been placed or after notice required by subsection (e) has been sent, whichever is later.

(d) Before a vehicle may be sold under subsection (c), an advertisement must be placed in a newspaper of general circulation printed in the English language in the city or town in which the lienholder's place of business is located. The advertisement must contain at least the following information:

- (1) A description of the vehicle, including make, type, and manufacturer's identification number.
- (2) The amount of the unpaid charges.
- (3) The time, place, and date of the sale.

(e) In addition to the advertisement required under subsection (d), the person who holds the mechanic's lien must:

- (1) notify the person who owns the vehicle and any other person who holds a lien of record at the person's last known address by certified mail, return receipt requested; or
- (2) if the vehicle is an abandoned motor vehicle, provide notice as required under subdivision (1) if the location of the owner of the motor vehicle or a lienholder of record is determined by the bureau in a search under ~~IC 9-22-1-20;~~

IC 9-22-1-19;

that the vehicle will be sold at public auction on a specified date to satisfy the lien imposed by this section.

(f) A person who holds a lien of record on a vehicle subject to sale under this section may pay the storage, repair, towing, or service charges due. If the person who holds the lien of record elects to pay the charges due, the person is entitled to possession of the vehicle and becomes the holder of the mechanic's lien imposed by this section.

(g) If the person who owns a vehicle subject to sale under this section does not claim the vehicle and satisfy the lien on the vehicle, the vehicle may be sold at public auction to the highest and best bidder for cash. A person who holds a mechanic's lien under this section may purchase a vehicle subject to sale under this section.

(h) A person who holds a mechanic's lien under this section may deduct and retain the amount of the lien and the cost of the advertisement required under subsection (d) from the purchase price received for a vehicle sold under this section. After deducting from the purchase price the amount of the lien and the cost of the advertisement, the person shall pay the surplus of the purchase price to the person who owns the vehicle if the person's address or whereabouts is known. If the address or whereabouts of the person who owns the vehicle is not known, the surplus of the purchase price shall be paid over to the clerk of the circuit court of the county in which the person who holds the mechanic's lien has a place of business for the use and benefit of the person who owns the vehicle.

(i) A person who holds a mechanic's lien under this section shall execute and deliver to the purchaser of a vehicle under this section a sales certificate in the form designated by the bureau, setting forth the following information:

- (1) The facts of the sale.
- (2) The vehicle identification number.
- (3) The certificate of title if available.
- (4) A certificate from the newspaper showing that the advertisement was made as required under subsection (d).

Whenever the bureau receives from the purchaser an application for certificate of title accompanied by these items, the bureau shall issue a certificate of title for the vehicle under IC 9-17.

SECTION 20. IC 9-29-5-13.5, AS AMENDED BY HEA 1357-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.5. (a) This section applies to a truck, trailer, or semitrailer and tractor for which a license fee provided in section 13(b) of this chapter has been paid.

(b) **Except as provided in subsections(d) and (e),** if the owner of a truck, trailer, or semitrailer and tractor described in subsection (a) begins to operate the truck, trailer, or semitrailer and tractor in the conduct of a commercial enterprise or for the transportation of farm products after the commodities have entered the channels of commerce during a registration year for which the license fee under section 13(b) of this chapter has been paid, the owner shall pay the amount listed in this chapter for a truck, trailer, or semitrailer and tractor of the same declared gross weight reduced by a credit determined under subsection (c) to license the truck, trailer, or semitrailer and tractor.

(c) The credit provided in subsection (b) equals:

- (1) the license fee paid under section 13(b) of this chapter; reduced by
- (2) ten percent (10%) for each full or partial calendar month that has elapsed in the registration year for which the license fee has been paid.

The credit may not exceed ninety percent (90%) of the license fee paid under section 13(b) of this chapter.

(d) **Notwithstanding subsections (b) and (e) and IC 9-18-2-4, a truck, trailer, or semitrailer and tractor described in subsection (a) may be operated intrastate for the transportation of seasonal, perishable fruit or vegetables to the first point of processing for a period that consists of not more than a thirty (30) day period in a registration year as provided by IC 9-21-21-4.3(a). Before a vehicle may be operated as provided in this subsection, the owner shall pay to the bureau:**

- (1) **any license fee due under section 13(b) of this chapter; and**
- (2) **eight and one-half percent (8.5%) of the license fee paid under section 13(b) of this chapter.**

(e) **Notwithstanding subsections (b) and (d) and IC 9-18-2-4, a truck, trailer, or semitrailer and tractor described in subsection (a) may be operated intrastate for the transportation of tomatoes or silage to the first point of processing for a period that consists of not more than one (1) seventy-one (71) day period in a registration year as provided by IC 9-21-21-4.3(b). Before a vehicle may be operated as provided in this subsection, the owner shall pay to the bureau:**

- (1) **any license fee due under section 13(b) of this chapter; and**
- (2) **seventeen percent (17%) of the license fee paid under section 13(b) of this chapter.**

SECTION 21. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2007]: IC 9-22-1-10; IC 9-22-1-20; IC 9-22-1-22; IC 9-22-1-28; IC 9-22-1-29.

SECTION 22. [EFFECTIVE UPON PASSAGE] (a) **As used in this SECTION, "account" means the motor vehicle highway account established in IC 8-14-1.**

(b) **The funds that remain on July 1, 2007 in the abandoned vehicle fund established by IC 9-22-1-28, as repealed by this act, shall be transferred to the account.**

(c) **This SECTION expires December 31, 2007.**

SECTION 23. **An emergency is declared for this act.**

(Reference is to EHB 1425 as reprinted April 4, 2007.)

AUSTIN	HEINOLD
CHERRY	SIMPSON
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1078-1; filed April 27, 2007, at 5:38 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1078 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-23-24.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. The commission consists of ~~fourteen (14)~~ **thirteen (13)** members, appointed as follows:

(1) ~~Ten (10)~~ **Nine (9)** members who are Indiana residents appointed by the governor. Each Indiana congressional district must be represented by at least one (1) individual appointed under this subdivision who is a resident of that congressional district. Not more than five (5) members appointed under this subdivision may be members of the same political party.

(2) Four (4) members of the general assembly who are appointed under section 5 of this chapter.

SECTION 2. IC 4-23-24.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. ~~Eight (8)~~ **Seven (7)** members of the commission constitute a quorum.

SECTION 3. IC 4-23-24.1-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6.5. (a) **The commission is responsible for making all policy decisions relating to the duties and powers of the commission.**

(b) Neither:

(1) the staff support provided by the civil rights commission under section 8 of this chapter; nor

(2) the executive director of the Dr. Martin Luther King Jr. Indiana holiday commission;

may make any policy decisions on behalf of the commission relating to the duties and powers of the commission, except as authority to make such decision is delegated by the commission.

SECTION 4. [EFFECTIVE JULY 1, 2007] (a) IC 4-23-24.1-3, as amended by this act, applies only to members of the Dr. Martin Luther King Jr. Indiana holiday commission appointed by the governor after December 31, 2008. A member of the commission appointed by the governor under IC 4-23-24.1-3(1) before January 1, 2009, may serve the entire four (4) year term to which the member was appointed, as provided in IC 4-23-24.1-4(b).

(Reference is to EHB 1078 as printed April 6, 2007.)

TINCHER	KRUSE
RUPPEL	LEWIS
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1566-1; filed April 27, 2007, at 5:39 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1566 respectfully reports

that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-13-16.5-1, AS AMENDED BY SEA 526-2007, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) The following definitions in this section apply throughout this chapter.

(1) (b) "Commission" refers to the governor's commission on minority and women's business enterprises established under section 2 of this chapter.

(2) (c) "Commissioner" refers to the deputy commissioner for minority and women's business enterprises of the department.

(3) (d) "Contract" means any contract awarded by a state agency for construction projects or the procurement of goods or services, including professional services.

(4) (e) "Department" refers to the Indiana department of administration established by IC 4-13-1-2.

(5) (f) "Minority business enterprise" or "minority business" means an individual, partnership, corporation, limited liability company, or joint venture of any kind that is owned and controlled by one (1) or more persons who are:

(A) (1) United States citizens; and

(B) (2) members of a minority group or a qualified minority or women's nonprofit corporation.

(g) "Qualified minority or women's nonprofit corporation" means a corporation that:

(1) is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;

(2) is headquartered in Indiana;

(3) has been in continuous existence for at least five (5) years;

(4) has a board of directors that has been in compliance with all other requirements of this chapter for at least five (5) years;

(5) is chartered for the benefit of the minority community; and

(6) provides a service that will not impede competition among minority business enterprises or women's business enterprises at the time a nonprofit applies for certification as a minority business enterprise or a women's business enterprise.

(6) (h) "Owned and controlled" means: having:

(1) if the business is a qualified minority or women's nonprofit corporation, a majority of the board of directors; or

(2) if the business is a business other than a qualified minority or women's nonprofit corporation, having:

(A) ownership of at least fifty-one percent (51%) of the enterprise, including corporate stock of a corporation;

(B) control over the management and active in the day-to-day operations of the business; and

(C) an interest in the capital, assets, and profits and losses of the business proportionate to the percentage of ownership.

(7) (i) "Minority group" means:

(A) (1) Blacks;

(B) (2) American Indians;

(C) (3) Hispanics;

(D) (4) Asian Americans; and

(E) (5) other similar minority groups. as defined by ~~13 CFR 124.103.~~

(8) (j) "Separate body corporate and politic" refers to an entity established by the general assembly as a body corporate and

politic.

~~(9)~~ (k) "State agency" refers to any authority, board, branch, commission, committee, department, division, or other instrumentality of the executive, including the administrative, department of state government

SECTION 2. IC 4-13-16.5-2, AS AMENDED BY P.L.4-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) There is established a governor's commission on minority and women's business enterprises. The commission shall consist of the following members:

- (1) A governor's designee, who shall serve as chairman of the commission.
- (2) The commissioner of the Indiana department of transportation.
- (3) The chairperson of the board of the Indiana economic development corporation or the chairperson's designee.
- (4) The commissioner of the department.
- (5) Nine (9) individuals with demonstrated capabilities in business and industry, especially minority and women's business enterprises, appointed by the governor from the following geographical areas of the state:
 - (A) Three (3) from the northern one-third (1/3) of the state.
 - (B) Three (3) from the central one-third (1/3) of the state.
 - (C) Three (3) from the southern one-third (1/3) of the state.
- (6) Two (2) members of the house of representatives, no more than one (1) from the same political party, appointed by the speaker of the house of representatives to serve in a nonvoting advisory capacity.
- (7) Two (2) members of the senate, no more than one (1) from the same political party, appointed by the president pro tempore of the senate to serve in a nonvoting advisory capacity.

Not more than six (6) of the ten (10) members appointed or designated by the governor may be of the same political party. Appointed members of the commission shall serve four (4) year terms. A vacancy occurs if a legislative member leaves office for any reason. Any vacancy on the commission shall be filled in the same manner as the original appointment.

(b) Each member of the commission who is not a state employee is entitled to the following:

- (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).
- (2) Reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided under IC 4-13-1-4 and in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each legislative member of the commission is entitled to receive the same per diem, mileage, and travel allowances established by the legislative council and paid to members of the general assembly serving on interim study committees. The allowances specified in this subsection shall be paid by the legislative services agency from the amounts appropriated for that purpose.

(d) A member of the commission who is a state employee but who is not a member of the general assembly is not entitled to any of the following:

- (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).
- (2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.
- (3) Other expenses actually incurred in connection with the member's duties.

(e) The commission shall meet at least four (4) times each year

and at other times as the chairman considers necessary.

(f) The duties of the commission shall include but not be limited to the following:

- (1) Identify minority and women's business enterprises in the state.
- (2) Assess the needs of minority and women's business enterprises.
- (3) Initiate aggressive programs to assist minority and women's business enterprises in obtaining state contracts.
- (4) Give special publicity to procurement, bidding, and qualifying procedures.
- (5) Include minority and women's business enterprises on solicitation mailing lists.

(6) Evaluate the competitive differences between qualified minority or women's nonprofit corporations and other than qualified minority or women's nonprofit corporations that offer similar services and make recommendation to the department on policy changes necessary to ensure fair competition among minority and women's business enterprises.

~~(6)~~ (7) Define the duties, goals, and objectives of the deputy commissioner of the department as created under this chapter to assure compliance by all state agencies, separate bodies corporate and politic, and state educational institutions with state and federal legislation and policy concerning the awarding of contracts **(including, notwithstanding section 1(d) of this chapter or any other law, contracts of state educational institutions)** to minority and women's business enterprises.

~~(7)~~ (8) Establish annual goals:

- (A) for the use of minority and women's business enterprises; and
- (B) derived from a statistical analysis of utilization study of state contracts that are required to be updated every five (5) years.

~~(8)~~ (9) Prepare a review of the commission and the various affected departments of government to be submitted to the governor and the legislative council on March 1 and October 1 of each year, evaluating progress made in the areas defined in this subsection.

(g) The department shall adopt rules of ethics under IC 4-22-2 for commission members other than commission members appointed under subsection (a)(6) or (a)(7).

(h) The department shall furnish administrative support and staff as is necessary for the effective operation of the commission.

SECTION 3. IC 4-13-16.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) There is created in the department a deputy commissioner for minority and women's business enterprise development. Upon consultation with the commission, the commissioner of the department, with the approval of the governor, shall appoint an individual who possesses demonstrated capability in business or industry, especially in minority or women's business enterprises, to serve as deputy commissioner to work with the commission in the implementation of this chapter.

(b) The deputy commissioner shall do the following:

- (1) Identify and certify minority and women's business enterprises for state projects.
- (2) Establish a central certification file.
- (3) Periodically update the certification status of each minority or women's business enterprise.
- (4) Monitor the progress in achieving the goals established under section ~~2(F)(7)~~ **(3(F)(8))** of this chapter.
- (5) Require all state agencies, separate bodies corporate and politic, and state educational institutions to report on planned and actual participation of minority and women's business enterprises in contracts awarded by state agencies. The commissioner may exclude from the reports

uncertified minority and women's business enterprises.

(6) Determine and define opportunities for minority and women's business participation in contracts awarded by all state agencies, separate bodies corporate and politic, and state educational institutions.

(7) Implement programs initiated by the commission under section 2 of this chapter.

(8) Perform other duties as defined by the commission or by the commissioner of the department.

SECTION 4. IC 4-13-16.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Before January 1 of even-numbered years, the department shall determine whether, during the most recently completed two (2) year period ending the previous July 1, the goals set under section ~~2(f)(7)~~ **2(f)(8)** of this chapter have been met.

(b) The department shall adopt rules under IC 4-22-2 to ensure that the goals set under section 2(f)(7) of this chapter are met. Expenditures with business enterprises that qualify as both a minority business enterprise and a women's business enterprise may be counted toward the attainment of the goal for either:

- (1) minority business enterprises; or
- (2) women's business enterprises;

at the election made by the procurer of goods, services, or goods and services, but not both.

SECTION 5. IC 4-13-16.5-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) This section applies to a contractor whose offer designated minority businesses or women's business enterprises to furnish any supplies or perform any work under the contract awarded to the contractor.

(b) As used in this section, "contract" refers to any of the following:

- (1) A contract for the purchase of supplies by a state agency.
- (2) A contract for the performance of services for a state agency.
- (3) A public works contract (as defined in IC 4-13.6-1-14).
- (4) A contract to perform professional services (as defined in IC 4-13.6-1-11) in connection with a public works contract.

(c) As used in this section, "contractor" refers to a person awarded a contract by a state agency.

(d) As used in this section, "offer" means a response to a solicitation. The term includes a bid, proposal, and quote.

(e) As used in this section, "solicitation" means the procedure by which a state agency invites persons to submit an offer to enter into a contract with the state agency. The term includes an invitation for bids, a request for proposals, and a request for quotes.

(f) Before beginning work on a contract, a contractor shall do the following:

- (1) Notify in writing each minority business and women's business enterprise designated in the contractor's offer that the contractor has been awarded the contract.
- (2) Give copies of each notification to the state agency that awarded the contract.

(g) If a contractor fails to comply with subsection (f), the awarding state agency may consider the failure a breach of contract and do any of the following:

- (1) Cancel the contract.
- (2) Collect from the contractor all funds paid to the contractor under the contract.
- (3) Exercise any of the state's rights set out in the contract.
- (4) Use the failure as a basis for finding the contractor not responsible when awarding other contracts.

SECTION 6. IC 4-13-16.5-9 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) The department shall adopt rules under IC 4-22-2 to establish procedures to resolve grievances arising under this chapter.

(b) The rules may include informal procedures to resolve grievances.

(c) The procedures established under the rules must provide for final resolution of grievances before either of the following:

- (1) A panel of three (3) commission members. A panel formed under this subdivision must consist of at least two (2) commission members described in section 2(a)(5) of this chapter.
- (2) The commission. However, if the commission acts to resolve a grievance under this subdivision, members of the commission described in section 2(a)(6) or 2(a)(7) of this chapter may not participate in the proceeding.

(d) Final resolution of grievances arising under this chapter are subject to IC 4-21.5.

SECTION 7. [EFFECTIVE JULY 1, 2007] (a) Notwithstanding the provisions in IC 4-13-16.5-2, as amended by this act, requiring that statistical analysis of the use of minority and women's business enterprises must be updated every five (5) years, the commission on minority and women's business enterprises shall:

- (1) conduct; or
- (2) enter into a contract for;

the statistical analysis of the use of minority and women's business enterprises during the fiscal year beginning July 1, 2007, and ending June 30, 2008.

(b) The criteria for the analysis in IC 4-13-16.5-2, as amended by this act, must be used for the statistical analysis required under this SECTION.

(c) This SECTION expires December 31, 2008.

(Reference is to EHB 1566 as reprinted April 11, 2007.)

CRAWFORD	FORD
DUNCAN	SIMPSON
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT EHB 1767-1; filed April 27, 2007, at 5:53 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1767 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-1.1-10-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) All or part of a building is exempt from property taxation if it is owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes.

(b) A building is exempt from property taxation if it is owned, occupied, and used by a town, city, township, or county for educational, literary, scientific, fraternal, or charitable purposes.

(c) A tract of land, including the campus and athletic grounds of an educational institution, is exempt from property taxation if:

- (1) a building that is exempt under subsection (a) or (b) is situated on it;
- (2) a parking lot or structure that serves a building referred to in subdivision (1) is situated on it; or
- (3) the tract:

(A) is owned by a nonprofit entity established for the purpose of retaining and preserving land and water for their natural characteristics;

(B) does not exceed five hundred (500) acres; and

(C) is not used by the nonprofit entity to make a profit.

(d) A tract of land is exempt from property taxation if:

(1) it is purchased for the purpose of erecting a building that is to be owned, occupied, and used in such a manner that the building will be exempt under subsection (a) or (b); and

(2) not more than ~~three (3)~~ **four (4)** years after the property is purchased, and for each year after the ~~three (3)~~ **four (4)** year period, the owner demonstrates substantial progress and active pursuit towards the erection of the intended building and use of the tract for the exempt purpose. To establish substantial progress and active pursuit under this subdivision, the owner must prove the existence of factors such as the following:

(A) Organization of and activity by a building committee or other oversight group.

(B) Completion and filing of building plans with the appropriate local government authority.

(C) Cash reserves dedicated to the project of a sufficient amount to lead a reasonable individual to believe the actual construction can and will begin within ~~three (3)~~ **four (4)** years.

(D) The breaking of ground and the beginning of actual construction.

(E) Any other factor that would lead a reasonable individual to believe that construction of the building is an active plan and that the building is capable of being completed within ~~six (6)~~ **eight (8)** years considering the circumstances of the owner.

If the owner of the property sells, leases, or otherwise transfers a tract of land that is exempt under this subsection, the owner is liable for the property taxes that were not imposed upon the tract of land during the period beginning January 1 of the fourth year following the purchase of the property and ending on December 31 of the year of the sale, lease, or transfer. The county auditor of the county in which the tract of land is located may establish an installment plan for the repayment of taxes due under this subsection. The plan established by the county auditor may allow the repayment of the taxes over a period of years equal to the number of years for which property taxes must be repaid under this subsection.

(e) Personal property is exempt from property taxation if it is owned and used in such a manner that it would be exempt under subsection (a) or (b) if it were a building.

(f) A hospital's property that is exempt from property taxation under subsection (a), (b), or (e) shall remain exempt from property taxation even if the property is used in part to furnish goods or services to another hospital whose property qualifies for exemption under this section.

(g) Property owned by a shared hospital services organization that is exempt from federal income taxation under Section 501(c)(3) or 501(e) of the Internal Revenue Code is exempt from property taxation if it is owned, occupied, and used exclusively to furnish goods or services to a hospital whose property is exempt from property taxation under subsection (a), (b), or (e).

(h) This section does not exempt from property tax an office or a practice of a physician or group of physicians that is owned by a hospital licensed under IC 16-21-1 or other property that is not substantially related to or supportive of the inpatient facility of the hospital unless the office, practice, or other property:

(1) provides or supports the provision of charity care (as defined in IC 16-18-2-52.5), including providing funds or other financial support for health care services for individuals who are indigent (as defined in

IC 16-18-2-52.5(b) and IC 16-18-2-52.5(c)); or

(2) provides or supports the provision of community benefits (as defined in IC 16-21-9-1), including research, education, or government sponsored indigent health care (as defined in IC 16-21-9-2).

However, participation in the Medicaid or Medicare program alone does not entitle an office, practice, or other property described in this subsection to an exemption under this section.

(i) A tract of land or a tract of land plus all or part of a structure on the land is exempt from property taxation if:

(1) the tract is acquired for the purpose of erecting, renovating, or improving a single family residential structure that is to be given away or sold:

(A) in a charitable manner;

(B) by a nonprofit organization; and

(C) to low income individuals who will:

(i) use the land as a family residence; and

(ii) not have an exemption for the land under this section;

(2) the tract does not exceed three (3) acres;

(3) the tract of land or the tract of land plus all or part of a structure on the land is not used for profit while exempt under this section; and

(4) not more than ~~three (3)~~ **four (4)** years after the property is acquired for the purpose described in subdivision (1), and for each year after the ~~three (3)~~ **four (4)** year period, the owner demonstrates substantial progress and active pursuit towards the erection, renovation, or improvement of the intended structure. To establish substantial progress and active pursuit under this subdivision, the owner must prove the existence of factors such as the following:

(A) Organization of and activity by a building committee or other oversight group.

(B) Completion and filing of building plans with the appropriate local government authority.

(C) Cash reserves dedicated to the project of a sufficient amount to lead a reasonable individual to believe the actual construction can and will begin within ~~six (6)~~ **five (5)** years of the initial exemption received under this subsection.

(D) The breaking of ground and the beginning of actual construction.

(E) Any other factor that would lead a reasonable individual to believe that construction of the structure is an active plan and that the structure is capable of being:

(i) completed; and

(ii) transferred to a low income individual who does not receive an exemption under this section;

within ~~six (6)~~ **eight (8)** years considering the circumstances of the owner.

(j) An exemption under subsection (i) terminates when the property is conveyed by the nonprofit organization to another owner. When the property is conveyed to another owner, the nonprofit organization receiving the exemption must file a certified statement with the auditor of the county, notifying the auditor of the change not later than sixty (60) days after the date of the conveyance. The county auditor shall immediately forward a copy of the certified statement to the county assessor. A nonprofit organization that fails to file the statement required by this subsection is liable for the amount of property taxes due on the property conveyed if it were not for the exemption allowed under this chapter.

(k) If property is granted an exemption in any year under subsection (i) and the owner:

(1) ceases to be eligible for the exemption under subsection (i)(4);

(2) fails to transfer the tangible property within ~~six (6)~~ **eight (8)** years after the assessment date for which the exemption is initially granted; or

(3) transfers the tangible property to a person who:

(A) is not a low income individual; or

(B) does not use the transferred property as a residence for at least one (1) year after the property is transferred;

the person receiving the exemption shall notify the county recorder and the county auditor of the county in which the property is located not later than sixty (60) days after the event described in subdivision (1), (2), or (3) occurs. The county auditor shall immediately inform the county assessor of a notification received under this subsection.

(l) If subsection (k)(1), (k)(2), or (k)(3) applies, the owner shall pay, not later than the date that the next installment of property taxes is due, an amount equal to the sum of the following:

(1) The total property taxes that, if it were not for the exemption under subsection (i), would have been levied on the property in each year in which an exemption was allowed.

(2) Interest on the property taxes at the rate of ten percent (10%) per year.

(m) The liability imposed by subsection (l) is a lien upon the property receiving the exemption under subsection (i). An amount collected under subsection (l) shall be collected as an excess levy. If the amount is not paid, it shall be collected in the same manner that delinquent taxes on real property are collected.

(n) Property referred to in this section shall be assessed to the extent required under IC 6-1.1-11-9.

SECTION 2. IC 6-1.1-18.5-13, AS AMENDED BY P.L.154-2006, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. With respect to an appeal filed under section 12 of this chapter, the local government tax control board may recommend that a civil taxing unit receive any one (1) or more of the following types of relief:

(1) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if in the judgment of the local government tax control board the increase is reasonably necessary due to increased costs of the civil taxing unit resulting from annexation, consolidation, or other extensions of governmental services by the civil taxing unit to additional geographic areas or persons.

(2) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to meet the civil taxing unit's share of the costs of operating a court established by statute enacted after December 31, 1973. Before recommending such an increase, the local government tax control board shall consider all other revenues available to the civil taxing unit that could be applied for that purpose. The maximum aggregate levy increases that the local government tax control board may recommend for a particular court equals the civil taxing unit's estimate of the unit's share of the costs of operating a court for the first full calendar year in which it is in existence. For purposes of this subdivision, costs of operating a court include:

(A) the cost of personal services (including fringe benefits);

(B) the cost of supplies; and

(C) any other cost directly related to the operation of the court.

(3) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the quotient determined under STEP SIX of the following formula is equal to or greater than one and two-hundredths (1.02):

STEP ONE: Determine the three (3) calendar years that

most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property **or the initial annual adjustment of the assessed value of real property under IC 6-1.1-4-4.5** does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the civil taxing unit's total assessed value of all taxable property and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar year, divided by the sum of the civil taxing unit's total assessed value of all taxable property and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

STEP FOUR: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the sum of the total assessed value of all taxable property in all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar year, divided by the sum of the total assessed value of all taxable property in all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the calendar year immediately preceding the particular calendar year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Divide the STEP THREE amount by the STEP FIVE amount.

The civil taxing unit may increase its levy by a percentage not greater than the percentage by which the STEP THREE amount exceeds the percentage by which the civil taxing unit may increase its levy under section 3 of this chapter based on the assessed value growth quotient determined under section 2 of this chapter.

(4) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to pay the costs of furnishing fire protection for the civil taxing unit through a volunteer fire department. For purposes of determining a township's need for an increased levy, the local government tax control board shall not consider the amount of money borrowed under IC 36-6-6-14 during the immediately preceding calendar year. However, any increase in the amount of the civil taxing unit's levy recommended by the local government tax control board under this subdivision for the ensuing calendar year may not exceed the lesser of:

(A) ten thousand dollars (\$10,000); or

(B) twenty percent (20%) of:

(i) the amount authorized for operating expenses of a volunteer fire department in the budget of the civil taxing unit for the immediately preceding calendar year; plus

(ii) the amount of any additional appropriations authorized during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department under this chapter; minus

(iii) the amount of money borrowed under IC 36-6-6-14 during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department.

(5) Permission to a civil taxing unit to increase its levy in

excess of the limitations established under section 3 of this chapter in order to raise revenues for pension payments and contributions the civil taxing unit is required to make under IC 36-8. The maximum increase in a civil taxing unit's levy that may be recommended under this subdivision for an ensuing calendar year equals the amount, if any, by which the pension payments and contributions the civil taxing unit is required to make under IC 36-8 during the ensuing calendar year exceeds the product of one and one-tenth (1.1) multiplied by the pension payments and contributions made by the civil taxing unit under IC 36-8 during the calendar year that immediately precedes the ensuing calendar year. For purposes of this subdivision, "pension payments and contributions made by a civil taxing unit" does not include that part of the payments or contributions that are funded by distributions made to a civil taxing unit by the state.

(6) Permission to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the township's township assistance ad valorem property tax rate is less than one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation; and

(B) the township needs the increase to meet the costs of providing township assistance under IC 12-20 and IC 12-30-4.

The maximum increase that the board may recommend for a township is the levy that would result from an increase in the township's township assistance ad valorem property tax rate of one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation minus the township's ad valorem property tax rate per one hundred dollars (\$100) of assessed valuation before the increase.

(7) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) the increase has been approved by the legislative body of the municipality with the largest population where the civil taxing unit provides public transportation services; and

(B) the local government tax control board finds that the civil taxing unit needs the increase to provide adequate public transportation services.

The local government tax control board shall consider tax rates and levies in civil taxing units of comparable population, and the effect (if any) of a loss of federal or other funds to the civil taxing unit that might have been used for public transportation purposes. However, the increase that the board may recommend under this subdivision for a civil taxing unit may not exceed the revenue that would be raised by the civil taxing unit based on a property tax rate of one cent (\$0.01) per one hundred dollars (\$100) of assessed valuation.

(8) Permission to a civil taxing unit to increase the unit's levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the civil taxing unit is:

(i) a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000);

(ii) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000);

(iii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

(iv) a city having a population of more than fifteen

thousand four hundred (15,400) but less than sixteen thousand six hundred (16,600); or

(v) a city having a population of more than seven thousand (7,000) but less than seven thousand three hundred (7,300); and

(B) the increase is necessary to provide funding to undertake removal (as defined in IC 13-11-2-187) and remedial action (as defined in IC 13-11-2-185) relating to hazardous substances (as defined in IC 13-11-2-98) in solid waste disposal facilities or industrial sites in the civil taxing unit that have become a menace to the public health and welfare.

The maximum increase that the local government tax control board may recommend for such a civil taxing unit is the levy that would result from a property tax rate of six and sixty-seven hundredths cents (\$0.0667) for each one hundred dollars (\$100) of assessed valuation. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular year does not include that part of the levy imposed under this subdivision. In addition, a property tax increase permitted under this subdivision may be imposed for only two (2) calendar years.

(9) Permission for a county:

(A) having a population of more than eighty thousand (80,000) but less than ninety thousand (90,000) to increase the county's levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the county needs the increase to meet the county's share of the costs of operating a jail or juvenile detention center, including expansion of the facility, if the jail or juvenile detention center is opened after December 31, 1991;

(B) that operates a county jail or juvenile detention center that is subject to an order that:

(i) was issued by a federal district court; and

(ii) has not been terminated;

(C) that operates a county jail that fails to meet:

(i) American Correctional Association Jail Construction Standards; and

(ii) Indiana jail operation standards adopted by the department of correction; or

(D) that operates a juvenile detention center that fails to meet standards equivalent to the standards described in clause (C) for the operation of juvenile detention centers.

Before recommending an increase, the local government tax control board shall consider all other revenues available to the county that could be applied for that purpose. An appeal for operating funds for a jail or a juvenile detention center shall be considered individually, if a jail and juvenile detention center are both opened in one (1) county. The maximum aggregate levy increases that the local government tax control board may recommend for a county equals the county's share of the costs of operating the jail or a juvenile detention center for the first full calendar year in which the jail or juvenile detention center is in operation.

(10) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township needs the increase so that the property tax rate to pay the costs of furnishing fire protection for a township, or a portion of a township, enables the township to pay a fair and reasonable amount under a contract with the municipality that is furnishing the fire protection. However, for the first time an appeal is granted the resulting rate increase may not exceed fifty percent (50%) of the difference between the rate imposed for fire protection

within the municipality that is providing the fire protection to the township and the township's rate. A township is required to appeal a second time for an increase under this subdivision if the township wants to further increase its rate. However, a township's rate may be increased to equal but may not exceed the rate that is used by the municipality. More than one (1) township served by the same municipality may use this appeal.

(11) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township has been required, for the three (3) consecutive years preceding the year for which the appeal under this subdivision is to become effective, to borrow funds under IC 36-6-6-14 to furnish fire protection for the township or a part of the township. However, the maximum increase in a township's levy that may be allowed under this subdivision is the least of the amounts borrowed under IC 36-6-6-14 during the preceding three (3) calendar years. A township may elect to phase in an approved increase in its levy under this subdivision over a period not to exceed three (3) years. A particular township may appeal to increase its levy under this section not more frequently than every fourth calendar year.

(12) Permission to a city having a population of more than twenty-nine thousand (29,000) but less than thirty-one thousand (31,000) to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) an appeal was granted to the city under this section to reallocate property tax replacement credits under IC 6-3.5-1.1 in 1998, 1999, and 2000; and

(B) the increase has been approved by the legislative body of the city, and the legislative body of the city has by resolution determined that the increase is necessary to pay normal operating expenses.

The maximum amount of the increase is equal to the amount of property tax replacement credits under IC 6-3.5-1.1 that the city petitioned under this section to have reallocated in 2001 for a purpose other than property tax relief.

SECTION 3. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] (a) This SECTION applies to property that:

- (1) is located in Vermillion County;**
- (2) is used and owned by Ferguson Recreation Park, Inc.; and**
- (3) the auditor of Vermillion County, in a reversal of past county practice, determined to be not eligible for a property tax exemption under IC 6-1.1-10-16 for property taxes first due and payable in 2007.**

(b) Notwithstanding any other law, the auditor of Vermillion County shall:

- (1) waive the 2006 determination of the county auditor; and**
- (2) grant the appropriate exemption.**

(c) A property tax exemption granted under this SECTION applies to property taxes first due and payable in 2007.

(d) The general assembly finds that:

- (1) the property described in this SECTION was previously determined by the auditor of Vermillion County to be eligible to receive a property tax exemption under IC 6-1.1-10-16;**
- (2) the interest of taxpayer fairness requires a restoration of the property tax exemptions for the property that have been denied for property taxes first due and payable in 2007; and**
- (3) the absence of other remedies for the taxpayers requires legislative action.**

(e) This SECTION expires December 31, 2007.

SECTION 4. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] (a) This SECTION applies to property that:

- (1) is located in Vermillion County;**
- (2) is used and owned by Blandford Sports Club;**
- (3) the auditor of Vermillion County, in a reversal of past county practice, determined to be not eligible for a property tax exemption under IC 6-1.1-10-16 for property taxes first due and payable in 2007; and**
- (4) was subject to a petition to the Indiana board of tax review that was denied by the Indiana board of tax review because the petitioner's Form 132 was untimely filed.**

(b) Notwithstanding any other law, the auditor of the county in which the property described in subsection (a) is located shall:

- (1) waive the 2006 determination of the county auditor;**
- (2) disregard the determination of the Indiana board of tax review; and**
- (3) grant the appropriate exemption.**

(c) A property tax exemption granted under this SECTION applies to property taxes first due and payable in 2007.

(d) The general assembly finds that:

- (1) the property described in this SECTION was previously determined by the auditor of Vermillion County to be eligible to receive a property tax exemption under IC 6-1.1-10-16;**
- (2) the interest of taxpayer fairness requires a restoration of the property tax exemptions for the property that have been denied for property taxes first due and payable in 2007; and**
- (3) the absence of other remedies for the taxpayers requires legislative action.**

(e) This SECTION expires December 31, 2007.

SECTION 5. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] (a) This SECTION applies to property that:

- (1) is located in Vermillion County;**
- (2) is used and owned by the Universal Young Men's Club; and**
- (3) the auditor of Vermillion County, in a reversal of past county practice, determined to be not eligible for a property tax exemption under IC 6-1.1-10-16 for property taxes first due and payable in 2007.**

(b) Notwithstanding any other law, the auditor of Vermillion County shall:

- (1) waive the 2006 determination of the county auditor; and**
- (2) grant the appropriate exemption.**

(c) A property tax exemption granted under this SECTION applies to property taxes first due and payable in 2007.

(d) The general assembly finds that:

- (1) the property described in this SECTION was previously determined by the auditor of Vermillion County to be eligible to receive a property tax exemption under IC 6-1.1-10-16;**
- (2) the interest of taxpayer fairness requires a restoration of the property tax exemptions for the property that have been denied for property taxes first due and payable in 2007; and**
- (3) the absence of other remedies for the taxpayers requires legislative action.**

(e) This SECTION expires December 31, 2007.

SECTION 6. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] (a) This SECTION applies notwithstanding the following:

- (1) IC 6-1.1-3-7.5.**
- (2) IC 6-1.1-10-31.1.**

- (3) IC 6-1.1-11.
- (4) 50 IAC 4.2-2.
- (5) 50 IAC 4.2-3.
- (6) 50 IAC 4.2-11.
- (7) 50 IAC 4.2-12.
- (8) All of the following as in effect before being voided by IC 6-1.1-3-22:
 - (A) 50 IAC 4.3-2.
 - (B) 50 IAC 4.3-3.
 - (C) 50 IAC 4.3-11.
 - (D) 50 IAC 4.3-12.
- (9) 50 IAC 16.

(b) As used in this SECTION, "amended return" means an amended personal property tax return submitted for filing by a taxpayer after December 31, 2006, and before March 1, 2007, for the assessment dates.

(c) As used in this SECTION, "assessment dates" refers to assessment dates (as defined in IC 6-1.1-1-2(1)) in 2002, 2003, and 2004.

(d) As used in this SECTION, "return" refers to the personal property tax return required under IC 6-1.1-3-7.

(e) As used in this SECTION, "taxpayer" means a taxpayer that:

- (1) filed original returns under IC 6-1.1-3-7 for the assessment dates; and
- (2) submitted for filing amended returns for the assessment dates.

(f) The amended returns:

- (1) are allowed; and
- (2) are considered to have been timely filed.

(g) A taxpayer is entitled to the exemptions for tangible personal property claimed on:

- (1) Schedule B of the amended returns; and
- (2) the Form 103-W filed with the amended returns.

(h) Any notice of increased assessed value issued by a township assessor with respect to personal property that is the subject of an amended return is considered withdrawn and nullified.

(i) IC 6-1.1-37-7, IC 6-1.1-37-9, and IC 6-1.1-37-10 do not apply to any additional personal property taxes owed by a taxpayer as a result of filing an amended return.

(j) A taxpayer is not entitled to a refund with respect to any amended return filed by the taxpayer under this SECTION.

(k) This SECTION expires July 1, 2008.

SECTION 7. [EFFECTIVE JANUARY 1, 2001 (RETROACTIVE)] (a) The definitions in IC 6-1.1-1 apply to this SECTION.

(b) This SECTION applies only to an entity that meets all of the following conditions:

- (1) The entity is:
 - (A) a nonprofit corporation that is organized for educational, literary, scientific, religious, or charitable purposes; or
 - (B) a local chapter of a nonprofit corporation referred to in clause (A).
- (2) For the assessment date in a calendar year after 2000:
 - (A) tangible property owned by the entity was, except for the entity's failure to timely file an application under IC 6-1.1-11 for property tax exemption, otherwise eligible for an exemption;
 - (B) the entity failed to timely file an application under IC 6-1.1-11 for property tax exemption for the tangible property for the assessment date; and
 - (C) the entity's tangible property was subject to taxation for the assessment date.
- (3) The tangible property, or other property owned by the entity in the same county, was exempt from taxation in either:

- (A) the calendar year before the year containing the assessment date described in subdivision (2); or
- (B) the calendar year two (2) years before the year containing the assessment date described in subdivision (2).

(c) Notwithstanding any provision of IC 6-1.1-11 or any other law specifying the date by which an application for property tax exemption must be filed to claim an exemption for a particular assessment date, an entity described in subsection (b) may before January 1, 2008, file with the county assessor an application for property tax exemption for an assessment date described in subsection (b)(2).

(d) Notwithstanding any provision of IC 6-1.1-11 or any other law, an application for property tax exemption filed under subsection (c) is considered to be timely filed, and the county property tax assessment board of appeals shall grant an exemption claimed for the assessment date on the application upon the county property tax assessment board of appeals's determination that:

- (1) the entity's application for property tax exemption satisfies all other applicable requirements; and
- (2) the entity's tangible property was, except for the failure to timely file an application for property tax exemption, otherwise eligible for the claimed exemption.

(e) If an entity has previously paid the tax liability for tangible property for an assessment date and the property is granted an exemption under this SECTION for that assessment date, the county auditor shall issue a refund of the property tax paid by the entity. An entity is not required to apply for any refund due under this SECTION. The county auditor shall, without an appropriation being required, issue a warrant to the entity payable from the county general fund for the amount of the refund, if any, due the entity. No interest is payable on the refund.

(f) This SECTION expires January 1, 2009.

SECTION 8. [EFFECTIVE UPON PASSAGE] IC 6-1.1-10-16, as amended by this act, applies only to property taxes first due and payable after 2007.

SECTION 9. An emergency is declared for this act.

(Reference is to EHB 1767 as printed March 30, 2007.)

V. SMITH	KENLEY
M. SMITH	ROGERS
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT

ESB 247-1; filed April 27, 2007, at 5:54 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 247 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following: SECTION 1. IC 9-13-2-49.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 49.5. "Electronic traffic ticket", for purposes of IC 9-30-3, has the meaning set forth in IC 9-30-3-2.5.

SECTION 2. IC 9-24-12-3, AS AMENDED BY P.L.41-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 3. Except as provided in section 11 of this chapter, a public passenger chauffeur's license issued under this article after December 31, 1996, expires

at midnight of the birthday of the holder that occurs ~~two (2)~~ **four (4)** years following the date of issuance.

SECTION 3. IC 9-29-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 5. The fee for a public passenger chauffeur's license issued under IC 9-24-5 is ~~four (4) dollars (\$4)~~ **eight dollars (\$8)**.

SECTION 4. IC 9-30-3-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.5. (a) As used in this chapter, "electronic traffic ticket" means:

(1) a traffic information and summons; or

(2) a complaint and summons;

for traffic cases that is in an electronic format prescribed by the division of state court administration.

(b) An electronic traffic ticket may be referred to as an "e-citation".

SECTION 5. IC 9-30-3-5.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.3. In prescribing the contents of an electronic traffic ticket, the division of state court administration shall require the inclusion in an electronic traffic ticket of the contents required in an information and summons under section 6 of this chapter. The division of state court administration may modify the prescribed contents of an electronic traffic ticket as necessary for the ticket to be in an electronic format.

SECTION 6. IC 9-30-3-5.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.7. (a) When a law enforcement officer issues an electronic traffic ticket, the law enforcement officer:

(1) may print the electronic traffic ticket at the site of the traffic violation; and

(2) shall inform the individual to whom the electronic traffic ticket has been issued and note on the electronic traffic ticket whether the individual must appear in court on a specific date at a specific time.

(b) An electronic traffic ticket issued under this chapter that bears a printed or digital signature of:

(1) the law enforcement officer who issued the electronic traffic ticket; and

(2) the prosecuting attorney, or a representative of the office of the prosecuting attorney, of the county in which the electronic traffic ticket was issued;

is admissible in a court proceeding as if the signatures referred to in subdivisions (1) and (2) were original signatures.

(c) A law enforcement officer who issues an electronic traffic ticket may transmit the electronic traffic ticket to the court electronically if the court and the electronic traffic ticket are in compliance with the administrative rules adopted by the supreme court.

(d) A law enforcement officer who issues an electronic traffic ticket shall indicate on the electronic traffic ticket whether the law enforcement officer served the person receiving the electronic traffic ticket.

(e) The electronic transmission of an electronic traffic ticket shall be considered by the court as an original certified copy of the traffic information and summons or complaint and summons. An electronic traffic ticket may be used:

(1) to notify the bureau of an Indiana resident who fails to:

(A) appear; or

(B) answer a traffic information and summons or complaint and summons;

(2) to notify the bureau of a defendant who is not an Indiana resident and who fails to:

(A) appear; or

(B) answer a traffic information and summons;

(3) to notify the bureau upon a final determination of a defendant's failure to appear; or

(4) as a record of a traffic case that an individual has been charged with a traffic offense when:

(A) the individual has been convicted;

(B) a judgment has been entered; or

(C) a finding has been made by a court.

SECTION 7. IC 9-30-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) This section does not apply to electronic traffic tickets.

(b) In traffic cases, the information and summons shall be in substantially the following form:

In the _____ Court of _____ County

Cause No. _____ Docket No. _____

Page No. _____

State of Indiana

SS: No. _____

County of _____
INFORMATION AND SUMMONS

The undersigned having probable cause to believe and being duly sworn upon his oath says that:

On the _____ Day of _____, 20 ____ at ____ M
Name _____

Last First Middle

Street _____

City _____ State _____ Zip Code _____

Race _____ Sex _____ Age _____ D.O.B. _____ HT _____ WT _____

Oper. Lic. # _____ St. _____ Did Unlawfully _____

Operate Veh. Color _____ Veh. Yr. _____ Veh. Make _____

Veh. Lic. Yr. _____ Veh. Lic. St. _____ Veh. Lic. # _____

Upon, (Location) _____

A PUBLIC STREET OR HIGHWAY IN _____
COUNTY, INDIANA, AND COMMIT, THE OFFENSE OF:

CONTRARY TO THE FORM OF THE () STATE STATUTE
() LOCAL ORDINANCE IN SUCH CASE MADE AND
PROVIDED.

OFFICER'S SIGNATURE _____

I.D. No. _____ Div. Dist. _____

POLICE AGENCY _____

Subscribed And Sworn to Before Me _____

(Deputy Clerk) _____

This _____ Day of _____, 20 ____

COURT APPEARANCE

I PROMISE TO APPEAR IN COURTROOM

ADDRESS: _____

ON _____ THE _____ DAY OF _____, 20 ____

AT _____ M. OR BE SUBJECT TO ARREST.

SIGNATURE _____

"YOUR SIGNATURE IS NOT AN ADMISSION OF GUILT"

The information and summons shall consist of four (4) parts:

(1) the original copy, printed on white paper, which shall be the abstract of court record for the Indiana bureau of motor vehicles;

(2) the court copy, printed on white paper;

(3) the police record, which shall be a copy of the information, printed on pink paper; and

(4) the summons copy, printed on white stock.

The reverse sides of the information and abstract of court record shall be substantially as follows, with such additions or deletions as are necessary to adapt the form to the court involved:

RECEIPT # _____

DATE _____

COURT ACTION AND OTHER ORDERS

BAIL \$ _____

REARREST BOND \$ _____ DATE _____

1. CONTINUANCE TO ____ 4. CONTINUANCE TO ____
 2. CONTINUANCE TO ____ 5. CONTINUANCE TO ____
 3. CONTINUANCE TO ____ 6. CONTINUANCE TO ____

	Motions	Date	Ruling	Date
1.	____	____	____	____
2.	____	____	____	____
3.	____	____	____	____
4.	____	____	____	____

PLEA ☐ GUILTY
☐ NOT GUILTY
 FINDING ☐ GUILTY
☐ NOT GUILTY
 THE COURT THEREFORE, ENTERS
 THE FOLLOWING ORDER
 FINE \$ _____ AMOUNT SUSP. \$ _____
 (STATE) \$ _____
 COSTS _____
 (CITY) \$ _____
 _____ DAYS IN _____ DAYS SUSP.

☐ RECOMMENDED LICENSE SUSPENDED FOR _____
☐ PROBATIONARY LICENSE AUTHORIZED FOR ONE
 YEAR PROBATION

JUDGE: _____
 DATE: _____
 ATTORNEY FOR DEFENDANT _____
 ADDRESS _____ TELEPHONE _____
 WITNESSES _____

The notice, the appearance, the plea of either guilty or not guilty, and the waiver shall be printed on the summons. The trimmed size of the paper and stock on which the form is printed shall be nominally four and one quarter (4 1/4) inches by eight and one quarter (8 1/4) inches.

(b) (c) In civil traffic cases, the complaint and summons shall be in substantially the following form:

In the _____ Court of _____
 County _____
 Cause No. _____ Docket No. _____
 Page No. _____
 State of Indiana _____
 SS: No. _____

County of _____
COMPLAINT AND SUMMONS
 The undersigned having probable cause to believe and being duly sworn upon his oath says that:
 On the _____ Day of _____, 20 ____ at ____ M
 Name _____
 Last First Middle

Street _____
 City _____ State _____ Zip Code _____

Race ____ Sex ____ Age ____ D.O.B. ____ HT ____ WT ____
 Oper. Lic. # _____ St. _____ Did
 Unlawfully
 Operate Veh. Color _____ Veh. Yr. ____ Veh. Make _____

Veh. Lic. Yr. ____ Veh. Lic. St. ____ Veh. Lic. # _____
 Upon, (Location) _____

A PUBLIC STREET OR HIGHWAY IN _____
 COUNTY, INDIANA, AND COMMIT, THE OFFENSE OF: _____

CONTRARY TO THE FORM OF THE () STATE STATUTE
 () LOCAL ORDINANCE IN SUCH CASE MADE AND
 PROVIDED.

OFFICER'S SIGNATURE _____
 I.D. No. _____ Div. Dist. _____

POLICE AGENCY _____

Subscribed And Sworn to Before Me
 (Deputy Clerk) _____

This _____ Day of _____, 20 ____

COURT APPEARANCE

I PROMISE TO APPEAR IN _____

COURTROOM _____

ADDRESS: _____

ON _____ THE _____ DAY OF _____, 20 ____

AT ____ M. OR BE SUBJECT TO ARREST.

SIGNATURE _____

"YOUR SIGNATURE IS NOT AN ADMISSION OF A
 VIOLATION"

The complaint and summons shall consist of four (4) parts:

(1) the original copy, printed on white paper, which shall
 be the abstract of court record for the Indiana bureau of
 motor vehicles;

(2) the court copy, printed on white paper;

(3) the police record, which shall be a copy of the
 complaint, printed on pink paper; and

(4) the summons copy, printed on white stock.

The reverse sides of the complaint and abstract of court record
 shall be substantially as follows, with such additions or deletions
 as are necessary to adapt the form to the court involved:

RECEIPT # _____

DATE _____

COURT ACTION AND OTHER ORDERS

BAIL \$ _____

REARREST BOND \$ _____ DATE _____

1. CONTINUANCE TO ____ 4. CONTINUANCE TO ____

2. CONTINUANCE TO ____ 5. CONTINUANCE TO ____

3. CONTINUANCE TO ____ 6. CONTINUANCE TO ____

	Motions	Date	Ruling	Date
1.	____	____	____	____
2.	____	____	____	____
3.	____	____	____	____
4.	____	____	____	____

The notice, appearance, plea of either admission, denial, or nolo contendere shall be printed on the summons. The trimmed size of the paper and stock on which the form is printed shall be nominally four and one quarter (4 1/4) inches by eight and one quarter (8 1/4) inches.

(c) (d) The complaint form shall be used in traffic cases, whether the charge is made by a law enforcement officer or by any other person.

(d) (e) Each judicial officer or police authority issuing traffic complaints and summons:

(1) is responsible for the disposition of all the traffic complaints and summons issued under the authority of the officer or authority; and

(2) shall prepare and submit the records and reports relating to the traffic complaints in the manner and at the time prescribed by both the state examiner of the state board of accounts and the bureau.

SECTION 8. IC 9-30-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) The court may issue a warrant for the arrest of a defendant who is an Indiana resident and who fails to appear or answer a traffic information and summons or a complaint and summons served upon the defendant. If the warrant is not executed within thirty (30) days after issue, the court shall promptly forward the court copy of the traffic information and summons or complaint and summons to the bureau indicating that the defendant failed to appear in court as ordered. The court shall then mark the case as failure to appear on the court's records.

(b) If a defendant who is not an Indiana resident fails to appear or answer a traffic summons served upon the defendant and upon which the information or complaint has been filed thirty (30) days after the return date of the information and summons or complaint and summons, the court shall promptly forward the court copy of the traffic information and summons or complaint and summons to the bureau. The bureau shall notify the motor vehicle commission of the state of the nonresident defendant of the defendant's failure to appear and also of any action taken by the bureau relative to the Indiana driving privileges of the defendant. If the defendant fails to appear or otherwise answer within thirty (30) days, the court shall mark the case as failure to appear on the court's records.

(c) If the bureau receives a copy of the traffic information and summons or complaint and summons for failure to appear in court **either on a form prescribed by the bureau or in an electronic format prescribed by the division of state court administration**, the bureau shall suspend the driving privileges of the defendant until the defendant appears in court and the case has been disposed of. The order of suspension may be served upon the defendant by mailing the order by first class mail to the defendant at the last address shown for the defendant in the records of the bureau. The order takes effect on the date the order is mailed.

(d) For nonresidents of Indiana, the order of suspension shall be mailed to the defendant at the address given to the arresting officer by the defendant as shown by the traffic information or complaint. The order takes effect on the date of mailing. A copy of the order shall also be sent to the motor vehicle bureau of the state of the nonresident defendant. If:

(1) the defendant's failure to appear in court has been certified to the bureau under this chapter; and

(2) the defendant subsequently appears in court to answer the charges against the defendant;

the court shall proceed to hear and determine the case in the same manner as other cases pending in the court. Upon final determination of the case, the court shall notify the bureau of the determination **either in an electronic format or** upon forms prescribed by the bureau. The notification shall be made by the court within ten (10) days after the final determination of the case, and **information from** the original copy of the traffic

information and summons or complaint and summons must accompany the notification.

SECTION 9. IC 9-30-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) Before accepting a plea of guilty to a misdemeanor traffic offense, the court shall inform the defendant of the defendant's rights, including the right to:

(1) engage counsel;

(2) a reasonable continuance to engage counsel to subpoena witnesses;

(3) have process issued by the court, without expense to the defendant, to compel the attendance of witnesses in the defendant's behalf;

(4) testify or not to testify in the defendant's own behalf;

(5) a trial by jury; and

(6) appeal.

(b) The court shall inform each defendant charged with a traffic offense other than a nonmoving traffic offense, if the defendant is convicted or judgment is entered against the defendant, that a record of the conviction or judgment will be sent to the bureau or the motor vehicle bureau of the state where the defendant received a license to drive to become a part of the defendant's driving record.

(c) The court shall keep a full record of every case in which a person is charged with a traffic offense other than a nonmoving traffic offense. Within ten (10) days after the conviction, judgment, or forfeiture of security deposit of a person, the court shall forward a copy of the judgment **in an electronic format** or an abstract as prescribed by IC 9-25-6-8. The abstract comprises the original copy of the traffic information and summons or complaint and summons if the conviction, judgment, or forfeiture of security deposit has been entered on that copy. However, instead of the original copy, the court may, subject to the approval of the bureau, send the information **in an electronic format** or in the form of a chemical based, magnetic, or machine readable media. Records of nonmoving traffic offenses are not required to be forwarded to the bureau.

(d) One (1) year after the abstract has been forwarded, the court may destroy the remaining court copies of the information and summons or complaint and summons and related pleadings if an order book entry of the copy has been made and the original copy has been sent to the bureau of motor vehicles.

(e) Upon the failure of a court officer to comply with subsection (c), the officer is liable on the officer's official bond for a civil penalty of one hundred dollars (\$100) accruing to the state, which may be recovered, together with the costs of the suit, in a civil action brought by the attorney general in the name of the state on relation of the attorney general. Each failure by an officer constitutes a separate cause of action.

SECTION 10. **An emergency is declared for this act.**

(Reference is to ESB 247 as reprinted March 23, 2007.)

MERRITT

L. LAWSON

MRVAN

DUNCAN

Senate Conferees

House Conferees

The conference committee report was filed and read a first time.

CONFEREES AND ADVISORS APPOINTED

The Speaker announced the following changes in appointment of Representatives as conferees and advisors:

EHB 1503 Conferees: Summers replacing T. Harris

Advisor: Summers removed

OTHER BUSINESS ON THE SPEAKER'S TABLE

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the President Pro Tempore of the Senate has appointed the

following Senators a conference committee to confer on Engrossed House Bill 1774:

Conferees: Becker and Deig

Advisors: Wyss and Errington

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE GOVERNOR

Mr. Speaker and Members of the House: On April 27, 2007, I signed into law House Enrolled Act 1378.

MITCHELL E. DANIELS, JR.
Governor

Representative Pelath announced a meeting of the Committee on Rules and Legislative Procedures to consider further conference committee reports

On the motion of Representative Candelaria Reardon, the House adjourned at 6:05 p.m., this twenty-seventh day of April, 2007, until Saturday, April 28, 2007, at 10:00 a.m.

B. PATRICK BAUER
Speaker of the House of Representatives

CLINTON McKAY
Principal Clerk of the House of Representatives